

CHAPTER 1525
DEPARTMENT OF AGRICULTURE
DAIRY INDUSTRY

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DAIRY INDUSTRY**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*

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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*

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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*

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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*

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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*

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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*

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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*

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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*

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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 allowed 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*

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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*

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1525.0910 [Repealed, 26 SR 627]

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1525.0920 SANITARY PIPING.

All sanitary piping, fittings, and connections that are used to conduct milk or milk products or are exposed to milk or milk products or from which liquids may drip, drain, or be drawn into milk or milk products must consist of smooth, impervious, corrosion-resistant, nontoxic, easily cleanable materials that are approved for food contact surfaces. Pasteurized milk and milk products must be conducted from one piece of equipment to another only through sanitary milk piping, in compliance with Minnesota Statutes, sections 31.101, subdivision 12, and 32.394, subdivision 4.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.021; 32.394; 32.415*

History: *26 SR 627*

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1525.0930 CONSTRUCTION AND REPAIR OF CONTAINERS AND EQUIPMENT.

All multiuse containers and equipment with which milk or milk products come in contact must be of smooth, impervious, corrosion-resistant, nontoxic material, must be constructed for ease of cleaning, and must be kept in good repair.

All single-use containers, closures, gaskets, and other articles with which milk or milk products come in contact must be nontoxic and must be manufactured, packaged, transported, and handled in a sanitary manner. Articles intended for single use must not be reused, in compliance with Minnesota Statutes, sections 31.101, subdivision 12, and 32.394, subdivision 4.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.021; 32.394; 32.415*

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1525.0940 COMPLIANCE.

All containers and equipment which are purchased after the adoption of parts 1525.0920 and 1525.0930 shall be considered to be in compliance with parts 1525.0690 and 1525.0930 if they conform to the sanitary design and construction standards of Minnesota Statutes, sections 31.101, subdivision 12, and 32.394, subdivision 4.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.021; 32.394; 32.415*

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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*

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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*

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1525.1040 PASTEURIZATION.

Pasteurized milk and milk products must comply with all requirements of Minnesota Statutes, sections 31.101, subdivision 12, and 32.394, subdivision 4. Equipment must be constructed, installed, and operated in compliance with Minnesota Statutes, sections 31.101, subdivision 12, and 32.394, subdivision 4.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.021; 32.394; 32.415*

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1525.1070 TRANSPORTING CONDENSED WHEY.

Whey that has been pasteurized in accordance with part 1525.1040 and that 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; 31.11; 32.021; 32.394; 32.415*

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1525.1100 MILK PASTEURIZATION RECORDING CHARTS; TESTS AND EXAMINATIONS.

Milk pasteurization recording charts must be completed and equipment tests and examinations must be conducted in accordance with Minnesota Statutes, sections 31.101, subdivision 12, and 32.394, subdivision 4.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.021; 32.394; 32.415*

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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*

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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*

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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*

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1525.1460 [Repealed, 26 SR 627]

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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 2012, 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 monthly tests must be reported back to the producer and to the regulatory agency within 21 days from the sample date to assure 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.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.394; 32.415*

History: *13 SR 980; 26 SR 627; L 2014 c 181 s 13*

Published Electronically: *October 13, 2014*

1525.1510 [Repealed, 26 SR 627]

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1525.1520 [Repealed, 16 SR 1127]

Published Electronically: *September 26, 2007*

1525.1521 DAIRY PLANT MONTHLY REPORTS.

A dairy plant that purchases products containing milk fat from producers shall report those transactions each month on forms furnished by the Minnesota Agriculture Statistics Service through the commissioner of agriculture.

Statutory Authority: *MS s 32.18*

History: *16 SR 1127*

Published Electronically: *September 26, 2007*

DAIRY PLANT LICENSE REVOCATION

1525.1530 CAUSE FOR HEARINGS.

When the commissioner is in possession of information that any person licensed under Minnesota Statutes, section 28A.04 has been convicted of violation of any law of this state relating to the purchase, sale, or handling of dairy products or any rule of the commissioner made and promulgated under the provisions of law or has continued in the course of conduct which deceives or defrauds producers or consumers, the commissioner may issue an order requiring such licensee to show cause why the license should not be revoked.

Statutory Authority: *MS s 32.10*

History: *17 SR 1279*

Published Electronically: *September 26, 2007*

1525.1540 NOTICE.

A copy of such order to show cause shall be served on all persons entitled to be informed in accordance with Minnesota Rules of Civil Procedure and shall state: time and place of hearing which shall be not less than ten or more than 30 days from the date of such order; the legal authority and jurisdiction under which the hearing is to be held; and the matters of fact and law asserted.

Statutory Authority: *MS s 32.10*

Published Electronically: *September 26, 2007*

1525.1550 HEARING.

The hearing by the commissioner shall be held in such a manner as to establish all pertinent facts bearing on the question of licensee's qualifications to retain a license.

Statutory Authority: *MS s 32.10*

Published Electronically: *September 26, 2007*

1525.1560 APPEARANCE OF LICENSEE.

The licensee shall appear in person if an individual or partnership; if a corporation, by the officers and employees having responsibility for management control of the operations. Any person compelled to appear in person before the commissioner shall be accorded the right to be accompanied, represented, and advised by counsel. When licensee is represented and advised by counsel the name and address of such counsel shall be noted on the record and service of all orders upon such counsel shall be service upon the licensee.

Statutory Authority: *MS s 32.10*

Published Electronically: *September 26, 2007*

1525.1570 APPEARANCE OF INTERESTED PERSONS.

So far as the orderly conduct of public business permits, any interested person may appear before the commissioner or responsible employees of the Department of Agriculture, for presentation, adjustment, or determination of any issue or controversy in connection with the order to show cause.

Statutory Authority: *MS s 32.10*

Published Electronically: *September 26, 2007*

1525.1580 ACCEPTABLE EVIDENCE.

Any oral or documentary evidence may be received, but the commissioner shall as a matter of policy provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence, 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*

Published Electronically: *September 26, 2007*

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*

Published Electronically: *September 26, 2007*

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*

Published Electronically: *September 26, 2007*

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*

Published Electronically: *September 26, 2007*

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*

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1525.1900 [Repealed, 22 SR 950]

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1525.1910 [Repealed, 22 SR 950]

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1525.1940 [Repealed, 22 SR 950]

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1525.1950 [Repealed, 22 SR 950]

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1525.1960 [Repealed, 22 SR 950]

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1525.1970 [Repealed, 22 SR 950]

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1525.1980 [Repealed, 22 SR 950]

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1525.1990 [Repealed, 22 SR 950]

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1525.2000 [Repealed, 22 SR 950]

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1525.2010 [Repealed, 22 SR 950]

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1525.2020 [Repealed, 22 SR 950]

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1525.2090 [Repealed, 13 SR 980]

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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, section 32.394. 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 31.10; 31.101; 31.11; 32.394; 32.415*

History: *26 SR 627*

Published Electronically: *September 26, 2007*

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, or goat milk under the Grade A label.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.394; 32.415*

History: *26 SR 627*

Published Electronically: *September 26, 2007*

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 16th edition of Standard Methods for Examination of Dairy Products of the American Public Health Association and the 17th edition of Official Methods of Analyses of the Association of Analytical Chemists; and otherwise meet the requirements of Minnesota Statutes, section 32.394, subdivision 4.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.394; 32.415*

History: *13 SR 980; 26 SR 627*

Published Electronically: *September 26, 2007*

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 Minnesota Statutes, section 32.394, subdivision 4, 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 sampling, 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 the analyst has not been approved.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.394; 32.415*

History: *13 SR 980; 17 SR 1279; 26 SR 627*

Published Electronically: *September 26, 2007*

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*

Published Electronically: *September 26, 2007*

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*

Published Electronically: *September 26, 2007*

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 1400.5010 to 1400.8400 and any amendments thereto.

Statutory Authority: *MS s 32.394*

History: *26 SR 391*

Published Electronically: *September 26, 2007*

1525.2370 REVOCATION OR SUSPENSION OF PERMIT.

The permit issued by the commissioner under the provisions of these rules shall remain valid for two years 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 31.10; 31.101; 31.11; 32.394; 32.415*

History: *26 SR 627*

Published Electronically: *September 26, 2007*

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*

Published Electronically: *September 26, 2007*

1525.2390 FEES.

An application for a permit must be accompanied by the fee established in Minnesota Statutes, section 32.394, subdivision 8a. 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.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.394; 32.415*

History: *13 SR 980; 26 SR 627*

Published Electronically: *September 26, 2007*

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*

Published Electronically: *September 26, 2007*

TESTING OF MILK ON THE BASIS OF PROTEIN**1525.2410 PURPOSE.**

Parts 1525.2410 to 1525.2490 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*

Published Electronically: *September 26, 2007*

1525.2420 DEFINITIONS.

Subpart 1. **Applicability.** For purposes of parts 1525.2410 to 1525.2490 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*

Published Electronically: *September 26, 2007*

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*

Published Electronically: *September 26, 2007*

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 1525.2490:

- 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*

Published Electronically: *September 26, 2007*

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 testing for protein content pursuant to parts 1525.2410 to 1525.2490. The commissioner may inspect and test any testing equipment with standardized solutions to determine their accuracy.

Statutory Authority: *MS s 32.394*

Published Electronically: *September 26, 2007*

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*

Published Electronically: *September 26, 2007*

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. Duplicate samples must be retained and tested for protein accuracy if the producer does not fall under the federal Milk Marketing Order. All duplicate 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 31.10; 31.101; 31.11; 32.394; 32.415*

History: *26 SR 627*

Published Electronically: *September 26, 2007*

1525.2480 TEST RECORDS.

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

The purchaser shall disqualify abnormal milk for testing on a protein basis when whole milk is found to be abnormal pursuant to Minnesota Statutes, sections 31.101, subdivision 12, and 32.394, subdivision 4, and the purchaser's records shall indicate the results of the confirmatory tests. Only confirmatory tests approved pursuant to Minnesota Statutes, sections 31.101, subdivision 12, and 32.394, subdivision 4, shall be used in determining the ineligibility of whole milk tested on a protein basis.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.394; 32.415*

History: *26 SR 627*

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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*

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1525.2550 FEE.

A manufacturer shall pay a fee to the commissioner of agriculture for fluid milk processed and milk used in the manufacture of fluid milk products, as that term is defined in Minnesota Statutes, section 32.391, subdivision 1e, sold for retail in Minnesota. In accordance with Minnesota Statutes, section 32.394, subdivision 8d, the fee is eight cents per hundredweight.

Statutory Authority: *MS s 32.394*

History: *21 SR 1778*

Published Electronically: *September 26, 2007*

1525.2600 WHOLE MILK RICOTTA CHEESE.

Ricotta cheese is the food prepared from heated milk and other ingredients specified in parts 1525.2600 to 1525.2640, by the procedure in part 1525.2610 or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure in part 1525.2610 is used. It contains not more than 80 percent of moisture and not less than 11 percent of milk fat.

Statutory Authority: *MS s 32.484*

History: *25 SR 1464*

Published Electronically: *September 26, 2007*

1525.2610 PROCEDURE.

Milk, which may be warmed or pasteurized or both and which may be clarified or homogenized or both, is mixed with an acidifying agent prescribed by part 1525.2640. Salt may also be added. Sufficient rennet (with or without purified calcium chloride in a quantity of not more than 0.02 percent, calculated as anhydrous calcium chloride, of the weight of the milk) may be added to set the milk. The mixture is heated until a temperature of about 180 degrees Fahrenheit is reached and it is held near that temperature until the curd separates. The curd is removed by skimming or the whey is drained or siphoned off. The curd is placed in perforated containers to permit further drainage. The containers may be placed in cold water for cooling. They are then removed from the water for further drainage. Additional curd may be obtained from the whey by the further addition of an acidifying agent prescribed by part 1525.2640 or by further heating or both. The curd may be whipped or beaten to obtain a finer texture.

Statutory Authority: *MS s 32.484*

History: *25 SR 1464*

Published Electronically: *September 26, 2007*

1525.2620 MILK.

For the purposes of parts 1525.2600 to 1525.2640 the word "milk" means cow's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto one or more of the following: cream, skim milk, concentrated skim milk, nonfat dry milk, water in sufficient quantity to reconstitute any concentrated skim milk or nonfat dry milk used.

Statutory Authority: *MS s 32.484*

History: *25 SR 1464*

Published Electronically: *September 26, 2007*

1525.2630 MILK USED IN CHEESE LABELED "PASTEURIZED."

All milk used for the manufacture of cheese which is labeled "pasteurized" must be pasteurized according to the method prescribed in this part.

Every particle of milk or milk product must be heated to one of the temperatures given in the following chart and held continuously at or above that temperature for at least the corresponding specified time:

| Temperature | Time |
|---------------|--------------|
| *63°C (145°F) | 30 minutes |
| *72°C (161°F) | 15 seconds |
| 89°C (191°F) | 1.0 seconds |
| 90°C (194°F) | 0.5 seconds |
| 94°C (201°F) | 0.1 seconds |
| 96°C (204°F) | 0.05 seconds |
| 100°C (212°F) | 0.01 seconds |

* If the fat content of the milk product is ten percent or more or it contains added sweeteners, the specified temperature must be increased by 3°C (5°F).

Ricotta cheese must be deemed not to have been prepared from properly pasteurized milk if 0.25 gram shows a phenol equivalent of more than three micrograms.

Statutory Authority: *MS s 32.484*

History: *25 SR 1464*

Published Electronically: *September 26, 2007*

1525.2640 ACIDIFYING AGENTS.

The acidifying agents prescribed in part 1525.2610 are one or a mixture of two or more of the following: culture of harmless lactic-acid-producing bacteria, a vinegar, fermented whey, lactic acid, and citric acid.

Statutory Authority: *MS s 32.484*

History: *25 SR 1464*

Published Electronically: *September 26, 2007*

1525.2650 PART-SKIM RICOTTA CHEESE.

Part-skim ricotta cheese conforms to the definition and standard of identity prescribed by parts 1525.2600 to 1525.2640 for ricotta cheese, except that it contains less than 11 percent of milk fat, but not less than six percent.

Statutory Authority: *MS s 32.484*

History: *25 SR 1464*

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1525.2700 WHEY CHEESE.

Whey cheese (so-called) is produced by various processes from the constituents of whey. There are a number of varieties, each of which bears a distinctive name, according to the nature of the process by which it has been produced, as for example, "Ricotta," "Zieger," "Primost," "Mysost." (Note: not defined by federal.)

Statutory Authority: *MS s 32.484*

History: *25 SR 1464*

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1525.2890 MALTED MILK, POWDERED MALTED MILK.

"Malted milk," "powdered malted milk" is the product made by combining whole milk with the liquid separated from a mash of ground barley malt and wheat flour, with or without the addition of sodium chloride, sodium bicarbonate, and potassium bicarbonate, in such a manner as to secure the full enzymic action of the malt extract and by removing water. The resulting product contains not less than 7.5 percent of milk fat and not more than 3.5 percent of moisture.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.021; 32.394; 32.401; 32.415*

History: *26 SR 627*

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1525.2900 QUALITY TESTING OF MILK FROM NEW PRODUCER.

Every purchaser of milk for manufacturing purposes or for resale to another for manufacturing purposes shall demand and receive with the first milk delivery received from a producer a copy of the record of quality tests of the producer's milk made by a former purchaser during three months immediately preceding such delivery, unless the producer has not delivered such products to any other purchaser during that period. If the previous purchaser, after receiving a written request for such record from the producers or from the new purchaser, refuses or is unable to comply with such request, the new purchaser shall immediately report such failure or refusal to the commissioner.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.394; 32.415*

History: *26 SR 627*

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1525.2910 FIRST SHIPMENT OR SHIPMENT FOLLOWING EXTENDED PERIOD OF NONSHIPMENT.

An examination shall be made on the first shipment of milk from all producers shipping milk to a plant for the first time or following an extended period of nonshipment. The milk shall meet all applicable standards for acceptable milk as defined in Minnesota Statutes, section 32.415, paragraph (a). Thereafter, the milk shall be tested in accordance with procedures designated for regular producers.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.394; 32.415*

History: *26 SR 627*

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1525.2920 REJECTED MILK.

Whenever a sample of a producer's milk is classified as undergrade as defined in Minnesota Statutes, section 32.415, paragraph (a), milk from that producer may be accepted for a period not to exceed four weeks. The producer shall be notified immediately that the milk is classified "undergrade milk."

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.394; 32.415*

History: *17 SR 1279; 26 SR 627*

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1525.2930 ADDITIONAL SAMPLES.

Additional samples shall be tested and classified at least weekly, and the producer shall be notified of these test results. If, at the end of the four week period, the producer's milk does not meet the bacterial standards as prescribed in Minnesota Statutes, section 32.415, paragraph (a), the milk shall be rejected for sale and no milk from such producer's premises shall be offered for sale thereafter for human consumption nor shall it be accepted by a dairy plant until such sale or acceptance is authorized by the commissioner.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.394; 32.415*

History: *26 SR 627*

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1525.2940 CORRECTED CONDITIONS.

The commissioner may authorize such sale or acceptance of milk by a dairy plant only after the producer demonstrates that the conditions causing unsanitary milk have been corrected.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.394; 32.415*

History: *26 SR 627*

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1525.2950 REJECTION OF ILLEGAL MILK.

Purchases of milk for manufacturing purchasers shall reject all illegal milk immediately. They shall denature it by the addition of a harmless blue coat tar dye approved by the commissioner, shall affix to all cans or containers containing illegal milk a rejection tag provided by the commissioner, and shall indicate on the tag the reason for rejection. Under no circumstances shall such tags be removed from the cans or containers by the trucker, handler, or any other person while such illegal milk is contained therein. Such illegal milk shall not be sold for human consumption.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.394; 32.415*

History: *26 SR 627*

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1525.2960 PAYMENT BASIS.

The grade of milk paid for shall be based upon the quality and condition of the milk at the time of delivery to the dairy plant and the grade shall be one of the established grades promulgated by the commissioner of agriculture. In the case of bulk pickup, the grade of milk paid for shall be one of the established grades and shall be based upon the quality and condition of the milk at the time of pickup.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.394; 32.415*

History: *26 SR 627*

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1525.2970 REPORTS TO PRODUCERS.

The purchaser shall notify the producer at the time of payment of the official grade of milk for which the producer has been compensated.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.394; 32.415*

History: *26 SR 627*

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1525.2980 PROTECTION OF CANS OF MILK AND CREAM AND RETURNED CLEAN CANS WHEN PICKED UP AND DELIVERED AT ROADSIDE.

If the operator of the truck or other vehicle does not pick up the cans containing milk or cream from the cooling tank or milk house, but picks them up at the roadside, a structure shall be provided by the producer for protecting said cans of milk or cream from dust or other extraneous substances and from extreme heat or cold until picked up by the truck or other vehicle for hauling to the receiving or processing plant as prescribed in Minnesota Statutes, section 31.101, subdivision 12.

When return cans are delivered to a roadside, the trucker shall place them in the structure provided therefor.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.394; 32.415*

History: *26 SR 627*

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SKIM MILK AND BUTTERMILK BOUGHT BY WEIGHT**1525.2990 PURCHASE OF SKIM MILK AND BUTTERMILK.**

Purchases of skim milk and buttermilk by one dairy plant from another dairy plant for the purpose of resale as such or for manufacture into dairy products shall be made using the following procedures: the weight of each load of skim milk and buttermilk shall be accurately determined and the weight recorded; a representative sample of each load of skim milk and buttermilk shall be taken, the sample to be used for the determination of the percentage of total milk solids contained therein; and the percent of total milk solids of each such sample shall be determined by a method approved by the commissioner and a record of the test results shall be kept by the purchaser and shall be reported monthly and annually to the commissioner.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.394; 32.395; 32.415*

History: *26 SR 627*

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1525.3000 REPORT OF WEIGHT AND TEST.

A report of the weight and the test of each such load of skim milk and buttermilk shall be furnished to the plant from which the purchase was made, such report to be made not later than the day following delivery, except that reports for deliveries made on Saturday or Sunday may be made on Monday and for deliveries on holidays on the day following the holiday.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.394; 32.395; 32.415*

History: *26 SR 627*

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1525.3010 TEST PROCEDURES.

The test procedure to be used shall be as follows; provided, that the commissioner may permit other procedures which the commissioner has determined will give equally satisfactory results.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.394; 32.395; 32.415*

History: *17 SR 1279; 26 SR 627*

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1525.3020 SAMPLING.

A well mixed sample of skim milk or buttermilk of sufficient size for the test shall be taken. If not tested immediately, the sample shall be stored at 32 to 40 degrees Fahrenheit until tested. Preservatives shall not be added.

Statutory Authority: *MS s 31.10; 31.101; 31.11; 32.394; 32.395; 32.415*

History: *26 SR 627*

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1525.3030 UNIFORM INSIGNIA FOR MINNESOTA GRADE AA OR A.

A uniform grade insignia may be used on the package label of butter which has been manufactured in Minnesota and which has been graded "Minnesota Grade AA" or "Minnesota Grade A." The insignia shall consist of the grade statement enclosed by an outline map of Minnesota. The lines forming the map shall be not less than three points in width. No other written, printed, or graphic matter shall appear within the outline map. No person shall use the grade insignia on the label of any butter except as herein provided; nor shall any person use any insignia in semblance thereof on the label of any butter.

Statutory Authority: *MS s 31.10; 32.475*

History: *26 SR 627*

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QUIESCENTLY FROZEN CONFECTIONS**1525.3040 DEFINITIONS.**

Subpart 1. **Applicability.** Two of the following three definitions are general in nature, setting out standards of identity for two groups of products. The first, "quiescently frozen confections," includes those confections in which dairy ingredients are not generally used but does cover those items in which dairy ingredients are sometimes used in amounts insufficient to characterize these products as dairy confections. The second, "quiescently frozen dairy confections," includes only those confections that are generally characterized by their dairy ingredients. The third definition is specific for milk products.

Subp. 2. **Quiescently frozen confection.** "Quiescently frozen confection" means a clean and wholesome frozen product made from a mixture of water, sugar, and flavoring, with or without coloring, in the manufacture of which freezing has not been accompanied by stirring or agitation (generally known as quiescent freezing). This confection may be acidulated with harmless organic acid, may contain milk solids, may be made with or without added harmless natural and/or imitation flavoring, with or without added harmless coloring. The finished product may contain not more than one-half of one percent by weight of stabilizer composed of wholesome, edible material. The finished product shall contain not less than 17 percent by weight of total food solids.

Subp. 3. **Quiescently frozen dairy confection.** "Quiescently frozen dairy confection" means a clean and wholesome frozen product made from water, milk products, and sugar, with added harmless natural and/or imitation flavoring, with or without added harmless coloring, with or without added stabilizer, and with or without added emulsifier; and in the manufacture of which freezing has not been accompanied by stirring or agitation (generally known as quiescent freezing). It contains not less than 13 percent by weight of total milk solids, not less than 33 percent by weight of total food solids, not more than one-half of one percent by weight of stabilizer and not more than one-fifth of one percent by weight of emulsifier. The stabilizer and emulsifier must be composed of wholesome, edible material.

Subp. 4. **Milk products.** "Milk products" means pure, clean, and wholesome cream, dried cream, plastic cream, butter, butter oil, milk, concentrated milk from which some or all moisture is removed, sweetened condensed milk, dried milk, skim milk, concentrated skim milk from which some or all moisture is removed, sweetened condensed part skim milk, buttermilk, buttermilk product, whey, whey protein concentrate, and dry whey and shall include any of the foregoing products from which lactose or minerals have been wholly or partially removed and any other product made by the addition of any approved

substance to any of these milk products and used for similar purposes and which, when designated as a milk product by the commissioner, is known by its common name.

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

History: *26 SR 627*

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1525.3050 MANUFACTURING LIMITATIONS.

These quiescently frozen confections and quiescently frozen dairy confections must be manufactured in the form of servings, individually packaged, bagged, or otherwise wrapped, properly labeled, and purveyed to the consumer in the original factory-filled package.

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

History: *26 SR 627*

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1525.3060 PROCESSING OR MIXING PRIOR TO QUIESCENT FREEZING.

In the production of these quiescently frozen confections and quiescently frozen dairy confections, no processing or mixing prior to quiescent freezing shall be used that develops in the finished confection mix any physical expansion in excess of ten percent.

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

History: *26 SR 627*

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1525.3070 PASTEURIZATION AND COOLING OF MIX.

Mix for quiescently frozen dairy confections and for quiescently frozen confections containing milk products shall be pasteurized and cooled immediately after pasteurization in accordance with Minnesota Statutes, section 32.64, subdivisions 1 and 2, and records of such pasteurization and cooling shall be kept in accordance with Minnesota Statutes, section 32.64, subdivision 3.

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

History: *26 SR 627*

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1525.3080 BACTERIAL COUNTS, COLIFORM COUNTS.

At no time after pasteurization shall quiescently frozen confections containing milk products, quiescently frozen dairy confections or the mixes therefor, or quiescently frozen confections not containing milk products or the mix therefor have bacterial counts exceeding 50,000 bacteria per gram or coliform counts exceeding 20 coliforms per gram as determined in accordance with Minnesota Statutes, section 32.64, subdivision 4.

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

History: *26 SR 627*

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1525.3090 FROZEN MALTED MILK.

"Frozen malted milk" is the semifrozen food prepared from the same ingredients and in the same manner prescribed in Minnesota Statutes, section 31.101, subdivision 8, for ice cream and complies with the same provisions of Minnesota Statutes, section 31.101, subdivision 8 (including the requirements for label statement of optional ingredients), except that:

- A. it contains not less than seven percent by weight of milk fat;
- B. it contains not less than 14 percent by weight of total milk solids;
- C. it contains not less than three percent by weight of malted milk;
- D. it contains not less than 1-3/10 pounds of total food solids per gallon; and
- E. the name of the food is "frozen malted milk."

Statutory Authority: *MS s 31.10; 31.101*

History: *26 SR 627*

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1525.3100 FROZEN MILK SHAKE.

"Frozen milk shake" is the semifrozen food prepared from the same ingredients and in the same manner as prescribed in Minnesota Statutes, section 31.101, subdivision 8, for ice milk and complies with all the provisions of Minnesota Statutes, section 31.101, subdivision 8, except that:

- A. it shall be sold or served only to the consumer and only in a semifrozen state; and
- B. the name of the food is "frozen milk shake."

Statutory Authority: *MS s 31.10; 31.101*

History: *26 SR 627*

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1525.3110 FROZEN MALT.

"Frozen malt" is the semifrozen food prepared from the same ingredients and in the same manner as prescribed in Minnesota Statutes, section 31.101, subdivision 8, for ice milk and complies with all the provisions of Minnesota Statutes, section 31.101, subdivision 8, except that:

- A. it shall be sold or served only to the consumer and only in a semifrozen state;
- B. it shall contain malt flavoring; and
- C. the name of the food is "frozen malt."

Statutory Authority: *MS s 31.10; 31.101*

History: *26 SR 627*

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1525.3120 IDENTIFICATION OF MANUFACTURER.

The number or code permitted by Minnesota Statutes, section 32.62, subdivision 1, clause (5), in lieu of the name and address of the manufacturer of mix, ice cream mix, mix base, ice cream mix base, or frozen foods when a distributor's name and address appears on the label of the package or container in which such mix, ice cream mix, mix base, ice cream mix base, or frozen foods are prepackaged for sale, shall conform to the following:

A. The identification number or code shall consist 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.

B. Such number or code may be printed, embossed, or stamped on the package label.

C. If the manufacturer of the mix, ice cream mix, mix base, ice cream mix base, or frozen food cannot be identified because of the failure to use or misuse of the identity code, the product shall be deemed to be misbranded.

Statutory Authority: *MS s 31.10; 31.101*

History: *26 SR 627*

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