

## CHAPTER 31

## FOOD

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**31.001 CITATION.**

This chapter may be cited as the Minnesota food law.

**History:** 1974 c 84 s 1

**31.002 POLICY.**

It is the policy of this state to seek to achieve and maintain uniformity with the federal government and with other states insofar as possible, of regulation and control of the manufacture, distribution and sale of food in this state. To that end it is desirable and necessary that federal regulations adopted under authority of the federal act become state rules, and such rules shall be promulgated pursuant to state law.

**History:** 1974 c 84 s 2; 1985 c 248 s 70

**31.01 DEFINITIONS.**

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

**Subd. 2. Person.** "Person" means any individual, firm, partnership, copartnership, society, association, company, or corporation and includes any trustee, receiver, assignee or other similar representative thereof.

**Subd. 3. Food.** "Food" means articles used for food or drink for humans or other animals, chewing gum, and articles used for components of any such article.

**Subd. 4. Sell and sale.** "Sell" and "sale" shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such article in the conduct of any food operation.

**Subd. 5.** [Repealed, 1974 c 84 s 38]

**Subd. 6.** [Renumbered 32.55, subdivision 2]

**Subd. 7.** [Renumbered 32.55, subdivision 3]

**Subd. 8.** [Renumbered 32.55, subdivision 4]

**Subd. 9.** [Renumbered 32.55, subdivision 5]

**Subd. 10.** [Renumbered 32.55, subdivision 6]

**Subd. 11.** [Renumbered 32.55, subdivision 7]

**Subd. 12.** [Renumbered 32.55, subdivision 8]

**Subd. 13.** [Renumbered 32.55, subdivision 9]

**Subd. 14.** [Renumbered 32.55, subdivision 10]

**Subd. 15.** [Renumbered 32.55, subdivision 11]

**Subd. 16.** [Renumbered 32.55, subdivision 12]

**Subd. 17.** [Renumbered 32.55, subdivision 13]

**Subd. 18. Commissioner.** "Commissioner" means the commissioner of the department of agriculture.

**Subd. 19.** [Repealed, 1974 c 84 s 38]

**Subd. 20. Consumer commodity.** "Consumer commodity," except as otherwise specifically provided by this subdivision, means any food as defined in subdivision 3 or by the federal act. Such term does not include:

(a) Any tobacco or tobacco product.

(b) Any commodity subject to packaging or labeling requirements imposed under chapter 24.

(c) Any drug subject to the provisions of sections 151.34 to 151.40.

(d) Any beverage subject to the provisions of chapter 340A.

(e) Any commodity subject to the provisions of chapter 21.

**Subd. 21. Label.** "Label" means a display of written, printed, or graphic matter

upon the immediate container of any article, and includes a like display, if required by law or rule, on the outside container or wrapper, if any there be, of the retail package of such article.

Subd. 22. **Principal display panel.** "Principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

Subd. 23. **Immediate container.** "Immediate container" does not include package liners.

Subd. 24. **Package.** "Package" means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchases, but does not include:

(a) Shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof; or

(b) Shipping containers or outer wrappings used by retailers to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity.

Subd. 25. **Labeling.** "Labeling" means all labels and other written, printed, or graphic matter upon an article or any of its containers or wrappers, or accompanying such article.

Subd. 26. **Advertisement.** "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food.

Subd. 27. **Contaminated with filth.** "Contaminated with filth" applies to any food not securely protected from dust, dirt and, as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

Subd. 28. **Pesticide chemical.** "Pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with one or more other substances is an "economic poison" within the meaning of chapter 24, or the Federal Insecticide, Fungicide and Rodenticide Act (United States Code, title 7, sections 135-135k), as amended, and which is used in the production, storage, or transportation of raw agricultural commodities.

Subd. 29. **Raw agricultural commodity.** "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

Subd. 30. **Food additive.** "Food additive" means any substance the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food; including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use; if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures, or in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food, to be safe under the conditions of its intended use; except that such term does not include:

(a) A pesticide chemical in or on a raw agricultural commodity; or

(b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or

(c) A color additive; or

(d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the food additives amendment of 1958, pursuant to the federal act; the poultry products inspection act (United States Code, title 21, section 451 et seq.) of the meat inspection act of March 4, 1907 (Statutes at Large, volume 34, page 1260), as amended and extended (United States Code, title 21, section 71 et seq.).

Subd. 31. **Color additive.** "Color additive" means a material which

(a) is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from the vegetable, animal, mineral, or other source, and

(b) when added or applied to a food is capable, alone or through reaction with other substance, of imparting color thereto; except that such term does not include any material which has been or hereafter is exempted under the federal act.

"Color" includes black, white and intermediate grays. Nothing in this subdivision shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

Subd. 32. **Federal act.** "Federal act" means the federal Food, Drug, and Cosmetic Act, as amended (United States Code, title 21, section 301 et seq.).

**History:** (3790,3791,3792,3871) 1921 c 495 s 3,5,84; 1953 c 518 s 1; 1961 c 113 s 1; 1961 c 128 s 14; 1961 c 144 art 1 s 1-3; 1967 c 672 s 1; 1969 c 90 s 1; 1974 c 84 s 3-18; 1983 c 300 s 6; 1985 c 248 s 70; 1986 c 444

## BASIC REGULATORY LAWS RELATING TO FOOD

### 31.02 PROHIBITED ACTS.

The following acts set out in this section and the causing of such acts within this state are prohibited.

(a) The manufacture, sale, or delivery, holding or offering for sale of any food that is adulterated or misbranded;

(b) The adulteration or misbranding of any food;

(c) The receipt in commerce of any food that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise;

(d) The distribution in commerce of a consumer commodity, as defined in section 31.01, subdivision 20, if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of law and of rules promulgated pursuant to section 31.101; provided, however, that this prohibition shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that such persons are engaged in the packaging or labeling of such commodities, or prescribe or specify by any means the manner in which such commodities are packaged or labeled;

(e) The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of section 31.131;

(f) The dissemination of any false advertisement;

(g) The refusal to permit entry or inspection, or to permit the taking of a sample, or to permit access to or copying of any record as authorized by section 31.04;

(h) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the state of Minnesota from whom the relying person received in good faith the food;

(i) The removal or disposal of a detained or embargoed article in violation of section 31.05;

(j) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food if such act is done while such article is held for sale and results in such article being adulterated or misbranded;

(k) Forging, counterfeiting, simulating, or falsely representing, or without proper

authority using any mark, stamp, tag, label, or other identification device authorized or required by rules promulgated under the provisions of section 31.101 or of the federal act;

(l) The using by any person to the person's own advantage, or revealing, other than to the commissioner or the commissioner's authorized representative or to the courts when relevant in any judicial proceeding of any information acquired under authority of the Minnesota food law concerning any method or process which as a trade secret is entitled to protection; and

(m) The identification or sale as food for human consumption of any product which has previously been labeled or otherwise identified as animal food or seed which has received a seed treatment.

**History:** (3789) 1921 c 495 s 2; 1961 c 144 art 2 s 1; 1974 c 84 s 19; 1980 c 442 s 1; 1985 c 248 s 70; 1986 c 444

### 31.021 DETERMINATION OF MISLEADING.

If an article is alleged to be misbranded because the label is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.

**History:** 1974 c 84 s 20

**31.023** [Renumbered 31.75]

**31.03** [Renumbered 31.01, subdivision 19. Repealed, 1974 c 84 s 38]

### 31.031 INJUNCTION PROCEEDINGS.

In addition to the remedies hereinafter provided and irrespective of whether there exists an adequate remedy at law, the commissioner is hereby authorized to apply to the district courts of this state, and other appropriate courts, for a temporary restraining order or a temporary or permanent injunction restraining any person from violating any provisions of section 31.02, and prohibiting any person from engaging in any actions which the commissioner deems likely to cause or result in violations of section 31.02.

**History:** 1974 c 84 s 21

### 31.032 PENALTIES AND GUARANTY.

Subdivision 1. Any person who violates any of the provisions of section 31.02 is guilty of a misdemeanor.

Subd. 2. No person shall be subject to the penalties of subdivision 1 for having violated section 31.02, clauses (b) or (d), if the person establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the state of Minnesota from whom the person received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of the Minnesota food law.

Subd. 3. No publisher, radio broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section for the dissemination of such false advertisement.

**History:** 1974 c 84 s 22; 1986 c 444

**31.04 INSPECTION AUTHORITY.**

Subdivision 1. For purposes of enforcement of the Minnesota food law, the commissioner, or any of the commissioner's authorized agents, is authorized upon presenting appropriate credentials to the owner, operator or agent in charge:

(a) To enter at reasonable times any factory, warehouse, or establishment in which food is manufactured, processed, packed or held for introduction into commerce or after such introduction or to enter any vehicle being used to transport or hold such food in commerce;

(b) To inspect at reasonable times and within reasonable limits and in a reasonable manner such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers and labeling therein; and to obtain samples necessary to the enforcement of the Minnesota food law; and;

(c) To have access to and to copy all records of carriers in commerce showing the movement in commerce of any food or the holding thereof during or after such movement, and the quantity, shipper and consignee thereof; provided, that evidence obtained under this clause shall not be used in a criminal prosecution of the person from whom obtained; and provided, further, that carriers shall not be subject to the other provisions of the Minnesota food law by reason of their receipt, carriage, holding, or delivery of food in the usual course of business as carriers.

Subd. 2. Upon completion of any such inspection of a factory, warehouse, or other establishment and prior to leaving the premises, the authorized agent making the inspection shall give to the owner, operator or agent in charge a report in writing setting forth any conditions or practices observed which in the agent's judgment indicate that any food in such establishment:

(a) Consists in whole or in part of any filthy, putrid, or decomposed substance, or

(b) Has been prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health.

A copy of such report shall be sent promptly to the commissioner.

Subd. 3. An authorized agent making any such inspection of a factory, warehouse or other establishment who has obtained any sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises, shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

Subd. 4. When in the course of any such inspection of a factory or other establishment where food is manufactured, processed or packed, the officer or employee making the inspection obtains a sample of any such food and an analysis is made of such sample for the purpose of ascertaining whether such food consists in whole or in part of any filthy, putrid or decomposed substance or is otherwise unfit for food, a copy of the result of such analysis shall be furnished promptly to the owner, operator or agent in charge.

**History:** (3798) 1921 c 495 s 9; 1961 c 144 art 2 s 2; 1974 c 84 s 23; 1986 c 444

**31.041 REPORTING MINOR VIOLATIONS.**

Nothing in the Minnesota food law shall be construed as requiring the commissioner to report minor violations for the institution of proceedings when the commissioner believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

**History:** 1974 c 84 s 24

**31.05 EMBARGOES AND CONDEMNATIONS.**

Subdivision 1. A duly authorized agent of the commissioner who finds or has probable cause to believe that any food or consumer commodity is adulterated or so misbranded as to be dangerous or fraudulent, or is in violation of section 31.131 shall affix to such article a tag or other appropriate marking giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed,

and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission.

Subd. 2. When an article detained or embargoed under subdivision 1 has been found by such agent to be adulterated, or misbranded, the agent shall petition the district court in the county in which the article is detained or embargoed for an order and decree for the condemnation of such article. Any such agent who has found that an article so detained or embargoed is not adulterated or misbranded, shall remove the tag or other marking.

Subd. 3. If the court finds that a detained or embargoed article is adulterated or misbranded, such article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or the claimant's agent; provided, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, may by order direct that such article be delivered to claimant thereof for such labeling or processing under the supervision of an agent of the commissioner. The expense of such supervision shall be paid by claimant. The article shall be returned to the claimant and the bond shall be discharged on the representation to the court by the commissioner that the article is no longer in violation and that the expenses of such supervision have been paid.

Subd. 4. Whenever the commissioner or any of the commissioner's authorized agents shall find in any room, building, vehicle of transportation or other structure, any meat, seafood, poultry, vegetable, fruit or other perishable articles of food which are unsound, or contain any filthy, decomposed or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the same being hereby declared to be a nuisance, the commissioner, or the commissioner's authorized agent, shall forthwith condemn or destroy the same, or in any other manner render the same unsalable as human food, and no one shall have any cause of action against the commissioner or the commissioner's authorized agent on account of such action.

*History: (3799) 1921 c 495 s 10; 1961 c 144 art 2 s 3; 1974 c 84 s 25; 1986 c 444*

**31.06** [Repealed, 1963 c 849 s 17]

### **31.07 PRICE NOT COLLECTIBLE.**

No action shall be maintained for the purchase price or value of any food, the sale of which is now or hereafter prohibited by law or which is manufactured, used, sold, transported, kept or offered for sale, use, or transportation, or had in possession with intent to sell, use, or transport in violation of any law now or hereafter enacted; nor shall any person be liable for the price or value of food or board furnished in violation of any such law.

*History: (3801) 1921 c 495 s 12; 1961 c 144 art 2 s 5*

### **31.08 ADDITIONAL POWERS AND AUTHORITY; FOOD IN TRANSIT.**

The commissioner or any of the commissioner's assistants, inspectors, agents, or employees, in addition to the authority and powers otherwise conferred by law, is authorized and empowered to have and to take access to any and all trucks, aeroplanes, airships, vehicles, and railroad cars of every sort and nature transported or being within this state, all railroad stations, storage houses, warehouses, express offices, or other places wherein at any time there may be food transported or shipped into from without this state, whether or not such food has been manufactured, sold, or given away without the state; provided, that such food was manufactured, sold, or given away with the intent that it be delivered, had, or used within this state; and the commissioner shall

have the same power and authority to open any package, car, or vessel containing food so transported or shipped into from without the state, which contains, or which the commissioner has reason to believe contains, any such food; to inspect the contents thereof and to take samples for analysis and examination, all after the same manner and with the same procedure as obtains by law in reference to similar goods manufactured, sold, transported, offered for sale, use, or transportation, or had in possession with intent to sell, use, or transport within this state. If it shall appear that any such food is adulterated, misbranded, insufficiently labeled, unwholesome, poisonous, or deleterious, the commissioner shall have the same rights and remedies and shall enforce the same in the same manner as in the case of food manufactured, sold, transported, offered for sale, use, or transportation, or had in possession with intent to sell, use, or transport within this state. On receiving notice from the commissioner or any authorized agent or employee of a desire to inspect the contents of any such package, can, or vessel, it shall be the duty of any common carrier, storage agent, warehouse operator, or their employees, or other person having the same in possession or under control, to withhold the same from delivery within this state for such period of time as may be reasonably necessary for the inspection, examination, and analysis thereof. It is further made the duty of all such persons to render to the commissioner and the commissioner's agents and employees all the assistance in their power when so required to effectuate the purposes of laws now or hereafter enacted relating to food. In case such inspection, examination, or analysis of any such food shall disclose it to be adulterated, misbranded, insufficiently labeled, unwholesome, poisonous, or deleterious, such persons shall, on demand, disclose to the commissioner the names and addresses of the consignor and consignee of the package, can, or vessel containing the same, and the commissioner, before proceeding further, shall notify such consignor and consignee, in writing, at their respective addresses, of the result of the inspection, examination, or analysis as so disclosed. Any common carrier, warehouse operator, storage agent, employee, or other person having such food in possession or under control, failing or refusing to comply with any of the provisions of this section shall be guilty of a misdemeanor.

**History:** (3802) 1921 c 495 s 13; 1961 c 144 art 2 s 6; 1986 c 444

### **31.09 COMMISSIONER TO RENDER CERTAIN FOOD UNSALABLE.**

The commissioner and the commissioner's assistants, inspectors, agents, and employees, shall also have power and authority, in their discretion, to render unsalable for use as food, any food the sale or use of which is now or hereafter prohibited by law, or which is manufactured, sold, used, transported, offered for sale or transportation, or had in possession with intent to use, sell, or transport in violation of any provision thereof, or in violation of any provision of any rule, definition, standard, or ruling made, adopted, and published thereunder, and the commissioner and assistants, inspectors, agents, and employees shall be exempt from liability for any such action. The test of the condition of any such food shall be its condition at the time of discovery. Any reasonable and necessary means may be adopted for rendering such food unsalable for use as food.

**History:** (3803) 1921 c 495 s 14; 1961 c 144 art 2 s 7; 1985 c 248 s 70; 1986 c 444

### **31.095 DENATURING AND LABELING.**

All food originally designated as food for human consumption which is diverted to animal food channels or to seed must be labeled in compliance with animal food or seed laws and rules, and any which has been embargoed pursuant to section 31.05 must be denatured in a manner approved by the Minnesota department of agriculture.

**History:** 1980 c 442 s 2; 1981 c 261 s 3; 1985 c 248 s 70

### **31.10 STANDARDS, DEFINITIONS; PROMULGATION.**

For the purpose of preventing fraud and deception in the manufacture, use, sale, and transportation of food, or for the purpose of protecting and preserving the public



health, it shall be the duty of the commissioner to fix, adopt, and publish, from time to time, by rulings, in writing, definitions and standards of quality, purity, identity, composition, analysis, content and strength of articles of food, for which no definitions and standards are prescribed by law, and such definitions and standards so fixed, adopted, and published by the commissioner shall be the lawful definitions and standards thereof before all courts; provided that when definitions and standards have been or may be fixed by the secretary of the department of agriculture, or the secretary of the department of health and human services of the United States, except in cases where definitions or standards otherwise are prescribed by law, they may be accepted by the commissioner and if accepted, published as definitions or standards for Minnesota. All definitions and standards promulgated and adopted by the commissioner shall be done in the manner provided by law. Until such definitions and standards are promulgated and adopted in the manner stated, the definitions and standards heretofore prescribed by law or promulgated and adopted by the commissioner shall remain in full force and effect, except as otherwise prescribed by law. Any person who shall manufacture, use, sell, transport, package, offer for sale or transportation, or have in possession with the intent to sell, package, repackage, offer for sale or transportation, or use, or transport, any article of food, which does not conform to such definitions or standards so fixed, adopted, and published, shall be guilty of a misdemeanor.

**History:** (3804) 1921 c 495 s 15; 1953 c 518 s 2; 1955 c 538 s 4; 1961 c 144 art 2 s 8; 1983 c 300 s 7; 1985 c 248 s 70

### **31.101 RULES; HEARINGS; UNIFORMITY WITH FEDERAL LAW.**

Subdivision 1. The authority to promulgate and amend rules for the efficient administration and enforcement of the Minnesota food law is vested in the commissioner and is in addition to authority granted in sections 31.10, 31.11, and 31.12. Such rules when applicable shall conform, insofar as practicable and consistent with state law, with those promulgated under the federal law.

Subd. 2. Hearings authorized or required by law shall be conducted by the commissioner or such officer, agent, or employee as the commissioner may designate for the purpose.

Subd. 3. Federal pesticide chemical regulations and amendments thereto in effect on April 1, 1988, adopted under authority of the Federal Insecticide, Fungicide and Rodenticide Act, as provided by United States Code, title 7, chapter 6, are the pesticide chemical rules in this state. Such rules may be amended by the commissioner proceeding in accordance with the administrative procedure act.

Subd. 4. Federal food additive regulations and amendments thereto in effect on April 1, 1988, as provided by Code of Federal Regulations, title 21, parts 170 to 199, are the food additive rules in this state. Such rules may be amended by the commissioner proceeding in accordance with the administrative procedure act.

Subd. 5. Federal color additive regulations and amendments thereto in effect on April 1, 1988, as provided by Code of Federal Regulations, title 21, parts 70 to 82, are the color additive rules in this state. Such rules may be amended by the commissioner proceeding in accordance with the administrative procedure act.

Subd. 6. Federal special dietary use regulations and amendments thereto in effect on April 1, 1988, as provided by Code of Federal Regulations, title 21, parts 104 and 105, are the special dietary use rules in this state. Such rules may be amended by the commissioner proceeding in accordance with the administrative procedure act.

Subd. 7. Federal regulations and amendments thereto in effect on April 1, 1988, adopted under the Fair Packaging and Labeling Act, as provided by United States Code, title 15, sections 1451 to 1461, are the rules in this state. Such rules may be amended by the commissioner proceeding in accordance with the administrative procedure act; provided that the commissioner shall not adopt amendments to such rules or adopt other rules which are contrary to the labeling requirements for the net quantity of contents required pursuant to section 4 of the Fair Packaging and Labeling Act and the regulations promulgated thereunder.

Subd. 8. Applicable federal regulations including recodification contained in Code of Federal Regulations, title 21, parts 0-1299, Food and Drugs, in effect April 1, 1988, and not otherwise adopted herein, also are adopted as food rules of this state. Such rules may be amended by the commissioner in accordance with the administrative procedure act.

Subd. 9. **Fishery products rules.** Federal regulations in effect on April 1, 1989, as provided by Code of Federal Regulations, title 50, parts 260 to 266, are incorporated as part of the fishery products rules in this state for state inspections performed under a cooperative agreement with the United States Department of Commerce, National Marine Fisheries Service. The rules may be amended by the commissioner under chapter 14.

**History:** 1974 c 84 s 26; 1975 c 412 s 14; 1979 c 68 s 5; 1980 c 442 s 3; 1983 c 300 s 8-13; 1985 c 248 s 70; 1987 c 396 art 11 s 5-10; 1989 c 350 art 11 s 1; 1990 c 511 s 2

### **31.102 DEFINITIONS, STANDARDS OF IDENTITY; TEMPORARY PERMITS.**

Subdivision 1. Federal definitions and standards of identity, quality and fill of container and amendments thereto, in effect on April 1, 1988, adopted under authority of the federal act, are the definitions and standards of identity, quality and fill of container in this state. Such rules may be amended by the commissioner proceeding in accordance with the administrative procedure act.

Subd. 2. The commissioner may issue temporary permits for intrastate shipment of experimental packs of food. Such permits shall specify the conditions and terms of shipment, and the conditions may be at variance from the requirements of the rules relating to definitions and standards of identity as provided for in subdivision 1 when necessary to the completion or conclusiveness of an otherwise adequate investigation and where the interests of consumers are safeguarded. Rules relating to the issuance of such permits may be promulgated by the commissioner.

**History:** 1974 c 84 s 27; 1975 c 412 s 15; 1985 c 248 s 70; 1989 c 350 art 11 s 2

### **31.103 FAIR PACKAGING AND LABELING PROVISIONS.**

Subdivision 1. All labels of consumer commodities shall conform with the requirements for the declaration of net quantity of contents of section 4 of the Fair Packaging and Labeling Act (United States Code, title 15, section 1451 et seq.) and federal regulations in effect on April 1, 1988, promulgated pursuant thereto, except to the extent that the commissioner shall exercise authority to amend such rules in accordance with the administrative procedure act. Consumer commodities exempted from the requirements of section 4 of the Fair Packaging and Labeling Act shall also be exempt from this subdivision.

Subd. 2. The label of any package of a consumer commodity which bears a representation as to the number of servings of such commodity contained in such package shall bear a statement of the net quantity (in terms of weight, measure, or numerical count) of each such serving.

Subd. 3. No person shall distribute or cause to be distributed in commerce any packaged consumer commodity if any qualifying words or phrases appear in conjunction with the separate statement of net quantity of contents required by subdivision 1, but nothing in this section shall prohibit supplemental statements, at other places on the package, describing in nondeceptive terms the net quantity of contents; provided, that such supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the commodity contained in the package.

Subd. 4. Whenever the commissioner determines that rules containing prohibitions or requirements other than those prescribed by subdivision 1, are necessary to prevent the deception of consumers or to facilitate value comparisons as to any consumer commodity, the commissioner shall promulgate, with respect to that commodity, rules effective to:

(a) Establish and define standards for the characterization of the size of a package enclosing any consumer commodity, which may be used to supplement the label statement of net quantity of contents of packages containing such commodity, but this paragraph shall not be construed as authorizing any limitation on the size, shape, weight, dimensions, or number of packages which may be used to enclose any commodity;

(b) Regulate the placement upon any package containing any commodity, or upon any label affixed to such commodity, of any printed matter stating or representing by implication that such commodity is offered for retail sale at a price lower than the ordinary and customary retail sale price or that a retail sale price advantage is accorded to purchasers thereof by reason of the size of that package or the quantity of its contents;

(c) Require that the label on each package of a consumer commodity bear the common or usual name of such consumer commodity, if any, and, in case such consumer commodity consists of two or more ingredients, the common or usual name of each such ingredient listed in order of decreasing predominance, but nothing in this clause shall be deemed to require that any trade secret be divulged; or

(d) Prevent the nonfunctional slack-fill of packages containing consumer commodities.

For the purposes of clause (d), a package shall be deemed to be nonfunctionally slack-filled if it is filled to substantially less than its capacity for reasons other than protection of the contents of such package or the requirements of machines used for enclosing the contents in such package.

**History:** 1974 c 84 s 28; 1975 c 412 s 16; 1985 c 248 s 70; 1986 c 444; 1989 c 350 art 11 s 3

#### 31.104 FOOD LABELING EXEMPTION RULES.

The commissioner shall promulgate rules exempting from any labeling requirement food which is, in accordance with the practice of the trade, to be processed, labeled or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such food is not adulterated or misbranded upon removal from such processing, labeling or repacking establishment.

Federal regulations in effect on April 1, 1988, adopted under authority of the federal act relating to such exemptions are effective in this state unless the commissioner shall exercise authority to amend such regulations. The commissioner also may promulgate amendments to existing rules concerning exemptions in accordance with the administrative procedure act.

**History:** 1974 c 84 s 29; 1975 c 412 s 17; 1985 c 248 s 70; 1986 c 444; 1989 c 350 art 11 s 4

#### 31.11 RULES.

**Subdivision 1. Food laws.** For the purpose of preventing fraud and deception in the manufacture, use, sale, and transportation of food, or for the purpose of protecting and preserving the public health, it shall also be the duty of the commissioner to make and publish uniform rules, not inconsistent with law, for carrying out and enforcing the provisions of laws now or hereafter enacted relating to food; which rules shall be made in the manner provided by law. Until such rules are made and published, the rules heretofore made by the commissioner shall remain in full force and effect, except as otherwise prescribed by law. Any person who shall manufacture, use, sell, transport, offer for use, sale or transportation, or have in possession with intent to use, sell or transport, any article of food contrary to the provisions of any such rule, or who shall fail to comply with any such rule, shall be guilty of a misdemeanor.

**Subd. 2. Plan review fees.** The commissioner shall, by rule, set plan review fees that will approximate the cost to the department of its review of plans and specifications submitted by food handlers.

There is created in the state treasury an account known as the food handler plan review fund. Fees paid under this subdivision must be deposited in the food handler

plan review fund. Money in the food handler plan review fund is annually appropriated to the commissioner to pay the costs of the food handler plan and specifications review program.

**History:** (3805) 1921 c 495 s 16; 1961 c 144 art 2 s 9; 1985 c 248 s 70; 1989 c 350 art 11 s 5

### 31.12 LABELING.

For the purpose of preventing fraud and deception in the manufacture, use, sale, and transportation of food, or for the purpose of protecting and preserving the public health, it shall be the duty of the commissioner, by rulings not inconsistent with law, to require that any article of food, or the package, receptacle, or container thereof, before it be sold, transported, used, offered for sale or transportation, or had in possession with intent to use, sell or transport within this state, shall be labeled, stamped, stenciled, marked, or branded in such manner as to plainly exhibit to the purchaser any or all of the following data or information: The percentages and true composition of such food article, its quality, strength, quantity, source of its manufacture or production or the person by or for whom the same is manufactured, produced, packed, or shipped. The commissioner shall also have authority to prescribe by such rulings the date on which the same shall take effect and be in force, and also the form, size, style, and wording of, and the place, time, method, means and manner of use of all such labels, stamps, stencils, brands, and markings, which rulings shall be made in the manner provided by law. Until such rulings are made and in effect the rulings heretofore made by the commissioner shall remain in full force and effect, except as otherwise prescribed by law. Any person who shall fail to comply with such ruling or rulings shall be guilty of a misdemeanor.

**History:** (3806) 1921 c 495 s 17; 1961 c 144 art 2 s 10

### 31.121 FOOD ADULTERATION.

A food shall be deemed to be adulterated:

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or

(b) If it bears or contains any added poisonous or added deleterious substance, other than one which is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive, which is unsafe within the meaning of section 31.122; or

(c) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 31.122; or

(d) If it is or it bears or contains any food additive which is unsafe within the meaning of section 31.122; provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under section 31.122, and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provisions of section 31.122 and this clause, not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice, and the concentration of such residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity; or

(e) If it consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or

(f) If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to health; or

(g) If it is in whole or in part the product of a diseased animal or of an animal which has died otherwise than by slaughter, or of an animal that has been fed upon the uncooked offal from a slaughterhouse; or

(h) If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or

(i) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a rule or exemption in effect pursuant to section 31.122 or section 409 of the federal act; or

(j) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or

(k) If any substance has been substituted wholly or in part therefor; or

(l) If damage or inferiority has been concealed in any manner; or

(m) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is; or

(n) If it is confectionery, and (1) has partially or completely imbedded therein any nonnutritive object; provided, that this clause shall not apply in the case of any nonnutritive object if in the judgment of the commissioner, as provided by rules, such object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health; or (2) bears or contains any nonnutritive substance; provided, that this clause shall not apply to (i) a confection containing alcohol as defined in section 31.76, or (ii) a safe nonnutritive substance which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storing of such confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of any provision of the Minnesota food law; and provided further, that the commissioner may, for the purpose of avoiding or resolving uncertainty as to the application of this clause, issue rules allowing or prohibiting the use of particular nonnutritive substances; or

(o) If it is or bears or contains any color additive which is unsafe within the meaning of section 31.122; or

(p) If it is oleomargarine or margarine or butter and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance, or such oleomargarine or margarine or butter is otherwise unfit for food.

**History:** 1974 c 84 s 30; 1985 c 248 s 70; 1990 c 554 s 1; 1992 c 486 s 2

### 31.122 FOOD; TOLERANCES FOR ADDED POISONOUS INGREDIENTS.

Any added poisonous or deleterious substance, any food additive, any pesticide chemical in or on a raw agricultural commodity or any color additive, shall with respect to any particular use or intended use be deemed unsafe for the purpose of application of section 31.121, clause (b) with respect to any food, unless there is in effect a rule pursuant to section 31.101 limiting the quantity of such substance, and the use or intended use of such substance conforms to the terms prescribed by such rule. While such rules relating to such substance are in effect, a food shall not, by reason of bearing or containing such substance in accordance with the rules, be considered adulterated within the meaning of section 31.121, clause (a).

**History:** 1974 c 84 s 31; 1985 c 248 s 70

### 31.123 FOOD MISBRANDING.

A food shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular, or if its labeling, whether on the commodity itself, its container or its package, fails to conform with the requirements of Laws 1974, chapter 84;

(b) If it is offered for sale under the name of another food;

(c) If it is an imitation of another food for which a definition and standard of identity have been prescribed by rules as provided by sections 31.10 and 31.102; or if it is an imitation of another food that is not subject to clause (g), unless in either case its label bears in type of uniform size and prominence the word "imitation" and immediately thereafter the name of the food imitated;

(d) If its container is so made, formed, or filled as to be misleading;

(e) If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the net quantity of the contents in terms of weight, measure, or numerical count, which statement shall be separately and accurately stated in a uniform location upon the principal display panel of the label; provided, that under this subclause reasonable variations shall be permitted, and exemptions as to small packages shall be established by rules prescribed by the commissioner;

(f) If any word, statement, or other information required by or under authority of the Minnesota food law to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(g) If it purports to be or is represented as a food for which a definition and standard of identity have been prescribed by rules as provided by sections 31.10 and 31.102, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such rules, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food;

(h) If it purports to be or is represented as (1) a food for which a standard of quality has been prescribed by rules as provided by sections 31.10 and 31.102, and its quality falls below such standard unless its label bears, in such manner and form as such rules specify, a statement that it falls below such standard, or (2) a food for which a standard or standards of fill of container have been prescribed by rule as provided by sections 31.10 and 31.102, and it falls below the standard of fill of container applicable thereto unless its label bears, in such manner and form as such rules specify, a statement that it falls below such standard;

(i) If it is not subject to the provisions of clause (g), unless it bears labeling clearly giving (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; provided, that to the extent that compliance with the requirements of this subclause is impractical or results in deception or unfair competition, exemptions shall be established by rules promulgated by the commissioner;

(j) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the commissioner determines to be, and by rules prescribes as, necessary in order to fully inform purchasers as to its value for such uses;

(k) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that to the extent that compliance with the requirements of this clause is impracticable, exemptions shall be established by rules promulgated by the commissioner. The provisions of this clause and clauses (g) and (i) with respect to artificial coloring do not apply to butter, cheese or ice cream. The provisions with respect to chemical preservatives do not apply to a pesticide chemical when used in or on a raw agricultural commodity which is the product of the soil;

(l) If it is a raw agricultural commodity which is the product of the soil, bearing or containing a pesticide chemical applied after harvest, unless the shipping container of such commodity bears labeling which declares the presence of such chemical in or

on such commodity and the common or usual name and the function of such chemical; provided, however, that no such declaration shall be required while such commodity, having been removed from the shipping container, is being held or displayed for sale at retail out of such container in accordance with the custom of the trade;

(m) If it is a product intended as an ingredient of another food and when used according to the directions of the purveyor will result in the final food product being adulterated or misbranded;

(n) If it is a color additive unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive prescribed under the provisions of the federal act.

**History:** 1974 c 84 s 32; 1985 c 248 s 70

### 31.124 FALSE ADVERTISING.

An advertisement of a food shall be deemed to be false if it is false or misleading in any particular.

**History:** 1974 c 84 s 33

### 31.13 ANALYSIS; EVIDENCE.

It shall be the duty of the chief chemist and assistants to make analyses and examinations of such articles as shall be furnished to them by the commissioner, for the purpose of determining from such examination whether such articles are adulterated, misbranded, insufficiently labeled, unwholesome, poisonous, or deleterious and whether such articles have been manufactured, used, sold, transported, offered for use, sale, or transportation, or had in possession with intent to use, sell, or transport in violation of any law now or hereafter enacted relating to food, or of any definition, standard, rule, or ruling made and published thereunder, and to certify the result of such analysis and examination to the commissioner. A copy of the result of the examination or analysis of any such article, duly authenticated, by the chemist making such analysis or examination, under oath of such chemist, shall be prima facie evidence in all courts of the matters and facts therein contained.

**History:** (3807) 1921 c 495 s 18; 1961 c 144 art 2 s 11; 1985 c 248 s 70

### 31.131 EMERGENCY PERMIT CONTROL.

Subdivision 1. Whenever the commissioner finds after investigation that the distribution in the state of Minnesota of any class of food may, by reason of contamination with microorganisms during manufacture, processing, or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered commerce, the commissioner then, and in such case only, shall promulgate rules providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packaging, or packing of such class of food, for such temporary period of time as may be necessary to protect the public health; and after the effective date of such rules, and during such temporary period, no person shall introduce or deliver for introduction into commerce any such food manufactured, processed, or packed by any such manufacturer, processor, or packer unless such manufacturer, processor, or packer holds a permit issued by the commissioner as provided by such rules.

Subd. 2. The commissioner is authorized to suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended may at any time apply for the reinstatement of such permit, and the commissioner shall, immediately after prompt hearing and inspection of the establishment, reinstate such permit or issue an amended permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued, or as amended.

Subd. 3. Any officer or employee duly designated by the commissioner shall have

access to any factory or establishment, the operator of which holds a permit from the commissioner, for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator.

**History:** 1974 c 84 s 34; 1985 c 248 s 70; 1986 c 444

### 31.132 PUBLICITY.

Subdivision 1. The commissioner may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under the Minnesota food law, including the nature of the charge and the disposition thereof.

Subd. 2. The commissioner may also disseminate such substantiated information regarding food as the commissioner deems necessary in the interest of public health and the protection of the consumer against fraud. Nothing in this section shall be construed to prohibit the commissioner from collecting, reporting, and illustrating the results of the investigations of the commissioner.

**History:** 1974 c 84 s 35; 1986 c 444

### 31.14 DUTY TO PROSECUTE.

It shall be the duty of each county attorney, or city attorney to whom the commissioner reports any violation of the Minnesota food law, to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before any violation of the Minnesota food law is reported to any such attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present views before the commissioner or the commissioner's designated agent, either orally or in writing, in person, or by attorney, with regard to such contemplated proceeding.

**History:** (3808) 1921 c 495 s 19; 1961 c 144 art 2 s 12; 1974 c 84 s 36; 1986 c 444

### 31.15 DISPOSAL OF RECEIPTS.

In all prosecutions under section 31.14, save as therein specifically provided, the fine or fines collected by and under the same shall be forthwith transmitted by the officer collecting the same to the state treasurer, to the credit of the general fund, and all other fees and payments made to the commissioner, except as aforesaid, shall be accounted for and disposed of in the same manner.

**History:** (3810) 1921 c 495 s 21; 1961 c 144 art 2 s 13; 1969 c 399 s 1

### 31.16 [Renumbered 31.601]

### 31.161 FOOD; INSANITARY CONDITIONS PROHIBITED.

No person, firm, or corporation shall operate any bakery, confectionery, creamery, dairy, dairy barn, milk depot, laboratory, hotel, restaurant, cafe, dining room, eating house, fruit box, receptacle, fruit stand, or vehicle of any kind, packing or slaughter house, ice cream plant, or any place where any fruit or food products are manufactured, packed, stored, deposited, collected, prepared, produced, or served for the purpose of sale or profit, or sold for any purpose whatever, if the same is in a filthy, unclean, or insanitary condition, or is permitted to be in a filthy, unclean, or insanitary condition.

**History:** (3832) 1921 c 495 s 43

### 31.165 REMOVAL OF INSANITARY CONDITIONS.

If, in the opinion of the commissioner or the commissioner's assistant, inspector, or agent, after an investigation thereof, any bakery, confectionery, creamery, dairy, dairy barn, milk depot, laboratory, hotel, restaurant, cafe, dining room, or eating house,



fruit box, receptacle, fruit stand, or vehicle of any kind, packing or slaughter house, ice cream plant, or any place where any fruit or any food products are manufactured, packed, stored, deposited, collected, prepared, produced, served or sold for any purpose whatever, is operated in violation of section 31.161, the commissioner, assistant, inspector, or agent shall notify, in writing, the proprietor, owner, or manager of such bakery, confectionery, creamery, dairy, dairy barn, milk depot, laboratory, hotel, restaurant, cafe, dining room or eating house, fruit box or receptacle, fruit stand, or vehicle of any kind, packing or slaughter house, ice cream plant, or any place where any fruit or any food products are manufactured, packed, stored, deposited, collected, prepared, produced, served, or sold for any purpose, to place the same in a clean and sanitary condition within a reasonable time to be stated in the notice, which time so stated shall in no case be less than two days, and failure to comply with such notice within the time so stated shall be deemed a violation of the provisions of sections 31.161 to 31.171.

**History:** (3833) 1921 c 495 s 44; 1961 c 144 art 2 s 14; 1986 c 444

### 31.17 [Renumbered 31.611]

#### 31.171 EMPLOYMENT OF DISEASED PERSON.

It shall be unlawful for any person to work in or about any place where any fruit or any food products are manufactured, packed, stored, deposited, collected, prepared, produced or sold, whose condition is such that disease may be spread to associates direct, or through the medium of milk, cream, butter, other food or food products, likely to be eaten without being cooked after handling, whether such condition be due to a contagious, infectious, or venereal disease, in its active or convalescent stage, or to the presence of disease germs, whether accompanied by, or without, any symptoms of the disease itself.

It shall be the duty of the commissioner, or the commissioner's assistant, inspector, or agent, to report to the state commissioner of health for investigation, any person suspected to be dangerous to the public health, as provided for in this section, and immediately to exclude such person from such employment pending investigation and during the period of infectiousness, if such person is certified by the state commissioner of health, or an authorized agent, to be dangerous to the public health.

**History:** (3834) 1921 c 495 s 45; 1977 c 305 s 45; 1986 c 444

#### 31.175 WATER, PLUMBING, AND SEWAGE.

A person who is required by statutes administered by the department of agriculture, or by rules adopted pursuant to those statutes, to provide a suitable water supply, or plumbing or sewage disposal system, may not engage in the business of manufacturing, processing, selling, handling, or storing food at wholesale or retail unless the person's water supply is satisfactory under plumbing codes adopted by the department of health and the person's sewage disposal system satisfies the rules of the pollution control agency.

**History:** 1983 c 300 s 14; 1986 c 444

### 31.18 [Renumbered 31.651]

## FROZEN FOOD PROCESSING PLANTS

#### 31.185 FROZEN FOOD PROCESSING PLANTS.

Subdivision 1. **Definitions.** The term "food" as used herein includes every article used for, or entering into the consumption of, or used or intended for use in the preparation of food, drink, confectionery or condiment for humans, whether simple, mixed or compound.

"Frozen food processing plant" means an establishment in which food is processed and frozen for frozen storage.

“Sharp frozen” means freezing of food in a room in which the temperature is zero degrees Fahrenheit or below.

The term “department” as used herein means the department of agriculture.

“Person” means an individual, partnership, corporation or association.

“Processor” means any person who directly or indirectly, for compensation, cuts, wraps and freezes meat or meat products for frozen storage by the ultimate consumer.

**Subd. 2. Licenses.** Every person engaged in the business of operating a frozen food processing plant, or engaged as a processor, shall apply for a license under section 28A.04, and if the commissioner shall find that the applicant maintains a proper place for the storage of frozen foods, has proper cooling and freezing facilities, maintains a proper place and equipment for processing meats and meat products, and meets all sanitation requirements, the commissioner shall issue to the applicant a license therefor.

**Subd. 3.** [Repealed, 1971 c 339 s 27]

**Subd. 4. Commissioner may withhold licenses.** The commissioner may withhold a license from any applicant therefor under any provisions of this section whom the commissioner may deem unworthy and may revoke any license issued to any licensee who has violated the terms thereof, or who has failed to comply with any requirement of this section, or refused or failed to obey the commissioner’s lawful request or direction, and every conviction of the licensee for an offense punishable under this section shall be a sufficient ground for such revocation.

**Subd. 5. Enforcement.** The commissioner, and the commissioner’s inspectors, assistants and employees, shall enforce the provisions of this section.

**Subd. 6. Must meet requirements of rules.** No article of food shall be stored in any refrigerated locker unless it is in a proper condition for storage and meets all the requirements of law and such rules as may be established in the manner provided by law by the department of agriculture, with the exception of the labeling requirements.

**Subd. 7. Food not intended for human consumption.** Food or goods not intended for human consumption shall not be stored in a frozen food processing plant, unless it is kept in a separate room with a separate entrance:

**Subd. 8. Must be inspected by plant manager.** All food must be inspected by plant manager or butcher and sharp frozen before it may be placed in a refrigerator locker, and shall be kept at a temperature of not more than five degrees Fahrenheit during the period it is kept therein. The date of entry of each package of food into such locker shall be stamped on each package.

**Subd. 9. Not applicable to warehouse operators.** Persons who own or operate frozen food processing plants shall not be construed to be warehouse operators, nor shall receipts or other instruments issued by such persons in the ordinary conduct of their business be construed to be negotiable warehouse receipts.

**Subd. 10. Lessors’ liens.** Every lessor owning or operating a frozen food processing plant or plants shall have a lien upon all property therein for the handling, keeping, and storing of the same.

**Subd. 11. Enforcement of lien.** Such lien may be enforced by any remedy allowed by law for the enforcement of a lien against personal property, and such remedy shall not bar the right to recover so much of the frozen food processing plant’s claim as shall not be paid by the proceeds of the sale of the property.

**Subd. 12. Violations, prosecutions.** It shall be the duty of every prosecuting officer to whom the commissioner shall report any violation of this section, to cause appropriate proceedings to be commenced and prosecuted in the proper courts without delay for the enforcement of the penalties as in such case herein provided.

**Subd. 13. Violation, a misdemeanor.** Any person violating or failing to comply with any of the provisions of this section, or any of the provisions of any of the rules or rulings made and published thereunder shall be deemed guilty of a misdemeanor, and save as herein specifically provided, for each first offense shall be punished by a fine of not less than \$15 or by imprisonment for not less than 20 days and for each subsequent offense, by a fine of not less than \$50 or by imprisonment for not less than 60 days.

**History:** 1943 c 276 s 1-13; 1955 c 820 s 2; 1957 c 841 s 1-4; 1959 c 19 s 2; 1959 c

*224 s 1-6; 1961 c 113 s 1; 1961 c 144 art 2 s 16,17; art 3 s 1; 1963 c 123 s 2; 1969 c 399 s 1; 1969 c 1148 s 7; 1971 c 339 s 20; 1985 c 248 s 70; 1986 c 444*

- 31.19 [Renumbered 32.56]
- 31.20 [Renumbered 32.57]
- 31.21 [Renumbered 32.58]
- 31.22 [Renumbered 32.59]
- 31.23 [Renumbered 32.60]
- 31.24 [Renumbered 32.61]
- 31.25 [Renumbered 32.62]
- 31.26 [Renumbered 32.63]
- 31.27 [Renumbered 32.64]
- 31.28 [Renumbered 31.161]
- 31.29 [Renumbered 31.165]
- 31.30 [Renumbered 31.171]

## CANNERIES

### 31.31 COMMERCIAL CANNERIES, REGULATION.

All commercial canneries shall be under the supervision and regulation of the commissioner. For the purpose of sections 31.31 to 31.392, a commercial cannery is defined to mean any place or building where food is received in a raw or partly processed form, except for meats and meat products frozen in retail stores for sale directly to the consumer, for the purpose of canning in hermetically sealed containers and where sterilization by heat is used, or where preservation of vegetable products is accomplished by the use of approved chemical preservatives, sugar, salt or acidity factors introduced as ingredients or additives, or by freezing food for sale as and for food in any other type of vessel, bottle, can, bag, container or other type or form of package, and the products placed on the market for general consumption as human food; but shall not include private homes where farmers or others may pack or preserve vegetables, fruits, fish or other food products for their own use, or a food establishment that processes meat or poultry products under supervision of the U.S. department of agriculture. At such times as the commissioner may deem proper, the commissioner shall cause all commercial canneries to be inspected, and shall require the correction of all unsanitary conditions or practices found therein, and may search and enter all cupboards, closets, or any other places in such canneries for the purpose of enforcing the provisions of laws and rules provided therefor.

**History:** (3835) 1921 c 495 s 46; 1927 c 177 s 1; 1947 c 558 s 1; 1955 c 499 s 1; 1961 c 144 art 4 s 1; 1967 c 673 s 1; 1975 c 412 s 18; 1985 c 248 s 70; 1986 c 444

#### 31.311 INSPECTION UNDER SUPERVISION OF COMMISSIONER.

The inspection of commercial canneries shall be under the supervision of the commissioner of the department of agriculture. The commissioner shall appoint trained and qualified sanitarians who shall inspect commercial canneries as often as is necessary, conduct bacteriological surveys, make sanitary inspections, and assist the canning industry. All commercial canneries shall comply with all food and sanitary laws and related rules; shall use only proper raw materials and ingredients in the preparation of food products; and shall utilize approved processing techniques in the packing and preservation of food products. In making inspections of commercial canneries the quality of any raw materials or ingredients used in canning, packing, or preserving food products shall be examined, and any raw materials or other ingredients thereof unfit for use in the packaging, canning, or preservation of food products shall be condemned. All such trained and qualified sanitarians and bacteriologists employed under the provisions of Laws 1967, chapter 673, shall be subject to the provisions of chapter 43A.

All analyses, examinations, and assays of food samples and specimens either obtained during inspections or submitted to the laboratories of the Minnesota department of agriculture pursuant to law or rules shall be examined, analyzed, or assayed under the supervision of a bacteriologist of the department of agriculture.

**History:** 1947 c 558 s 2; 1957 c 114 s 1; 1961 c 113 s 1; 1967 c 673 s 2; 1981 c 210 s 54; 1985 c 248 s 70

### **31.32 REPORTS; INFORMATION FURNISHED.**

The commissioner shall issue public bulletins of information, report and publish the conditions found in canning factories, furnish and disseminate information regarding the canning industry, and for that purpose may arrange for educational exhibits and demonstrations, public meetings, and give instructions to processors and superintendents of canneries; such information shall be available to any person who is a resident of this state, or those now engaged in the business of canning, and to those who may hereafter engage therein who may properly apply therefor.

**History:** (3836) 1921 c 495 s 47

**31.33** [Repealed, 1971 c 339 s 27]

**31.34** [Repealed, 1947 c 558 s 6]

**31.35** [Repealed, 1947 c 558 s 6]

### **31.36 RULES FOR CANNERIES.**

The commissioner, in the manner provided by law, may prescribe rules for the operations of canneries, and proper labels, standards, and definitions of grades on products of canneries.

**History:** (3840) 1921 c 495 s 51; 1961 c 144 art 4 s 2; 1985 c 248 s 70

### **31.37 NOTICE OF INTENTION TO OPERATE.**

Any person owning or operating a canning factory shall, by written notice on or before June first, of each year, notify the commissioner whether or not such factory is to be operated during that season or year, giving kinds and varieties of products to be canned or manufactured that season. At least ten days prior to the beginning of operation of any canning factory, the commissioner shall be notified, in writing, of such intended operation. On or before November fifteenth, of each year, the owner, manager, or superintendent of such factory shall furnish the commissioner, agent, or inspector, with a report giving such information concerning the factory as the commissioner, agent, or inspector may require.

**History:** (3841) 1921 c 495 s 52; 1986 c 444

### **31.38 CERTIFICATE OF INSPECTION, COMMERCIAL CANNERIES; LABELS, BRANDS.**

The commissioner shall furnish to each commercial cannery that shall have fully complied with the provisions of sections 31.31 to 31.392, a certificate of inspection that such cannery has been inspected and has complied with all laws and rules applying thereto. The commissioner may authorize the proprietor of such cannery to use the following or similar label or brand on products: "Packed under rules of, and in cannery inspected by Minnesota department of agriculture," or such other label, trademark, device, brand, or guarantee certificate as the commissioner may designate or adopt.

**History:** (3842) 1921 c 495 s 53; 1927 c 177 s 4; 1961 c 113 s 1; 1961 c 144 art 4 s 3; 1985 c 248 s 70; 1986 c 444

### **31.39 ASSESSMENTS; INSPECTION SERVICES; COMMERCIAL CANNERIES ACCOUNT.**

The commissioner is hereby authorized and directed to collect from each commer-

cial cannery an assessment for inspection and services furnished, and for maintaining a bacteriological laboratory and employing such bacteriologists and trained and qualified sanitarians as the commissioner may deem necessary. The assessment to be made on each commercial cannery, for each and every packing season, shall not exceed one-half cent per case on all foods packed, canned, or preserved therein, nor shall the assessment in any one calendar year to any one cannery exceed \$3,000, and the minimum assessment to any cannery in any one calendar year shall be \$100. The commissioner shall provide appropriate deductions from assessments for the net weight of meat, chicken, or turkey ingredients which have been inspected and passed for wholesomeness by the United States Department of Agriculture. The commissioner may, when the commissioner deems it advisable, graduate and reduce the assessment to such sum as is required to furnish the inspection and laboratory services rendered. The assessment made and the license fees, penalties, and other sums so collected shall be deposited in the state treasury, as other departmental receipts are deposited, but shall constitute a separate account to be known as the commercial canneries inspection account, which is hereby created, and together with moneys now remaining in said account, set aside, and appropriated as a revolving fund, to meet the expense of special inspection, laboratory and other services rendered, as provided in sections 31.31 to 31.392. The amount of such assessment shall be due and payable on or before December 31, of each year, and if not paid on or before February 15 following, shall bear interest after that date at the rate of seven percent per annum, and a penalty of ten percent on the amount of the assessment shall also be added and collected.

**History:** (3843) 1921 c 495 s 55; 1923 c 379 s 1; 1925 c 385 s 1; 1927 c 177 s 5; 1947 c 558 s 3; 1961 c 144 art 4 s 4; 1967 c 673 s 3; 1971 c 339 s 21; 1975 c 412 s 19; 1986 c 444; 1991 c 254 art 3 s 17

**31.391** [Repealed, 1967 c 673 s 4]

### **31.392 CANNING IN DWELLING OR BASEMENT.**

No commercial canning of any food products shall be permitted in a house or dwelling or in the basement of any building.

**History:** 1947 c 558 s 5

### **31.393 PENALTIES.**

Whoever shall, without permission of the commissioner, use any brand, label, or device authorized by the commissioner, or who shall fail to furnish reports containing information required or within the time specified, or who shall fail to obey any lawful direction of the commissioner given while carrying out the provisions of sections 31.31 to 31.392, or shall use any raw materials, articles, or substances forbidden to be used in canning, packing, or preserving vegetables or fruits, or shall violate, or fail to comply with, any of the provisions of sections 31.31 to 31.392, or the rules made thereunder, shall be guilty of a misdemeanor.

**History:** (3844) 1921 c 495 s 54; 1927 c 177 s 6; 1949 c 229 s 3; 1953 c 518 s 4; 1961 c 144 art 4 s 5; 1985 c 248 s 70; 1986 c 444

**31.40** [Renumbered 31.90]

**31.401** [Repealed, 1983 c 300 s 28]

**31.402** [Repealed, 1983 c 300 s 28]

**31.403** [Repealed, 1983 c 300 s 28]

**31.404** [Repealed, 1983 c 300 s 28]

**31.405** [Repealed, 1983 c 300 s 28]

**31.406** [Repealed, 1983 c 300 s 28]

**31.41** [Renumbered 31.903]

**31.411** [Repealed, 1971 c 339 s 27]

- 31.42** [Repealed, 1961 c 144 art 6 s 6]  
**31.421** [Repealed, 1971 c 339 s 27]  
**31.43** [Renumbered 31.905]  
**31.431** [Repealed, 1971 c 339 s 27]  
**31.435** [Renumbered 31.621]  
**31.436** [Renumbered 31.631]  
**31.44** Subdivision 1. [Renumbered 31.91 subdivision 1]  
     Subd. 2. [Renumbered 32.645 subdivision 1]  
     Subd. 3. [Renumbered 32.645 subd 2]  
     Subd. 4. [Renumbered 31.393]  
     Subd. 5. [Renumbered 31.91 subd 2]  
**31.441** [Repealed, 1971 c 339 s 27]  
**31.451** [Repealed, 1971 c 339 s 27]  
**31.461** [Repealed, 1971 c 339 s 27]  
**31.471** [Repealed, 1971 c 339 s 27]  
**31.481** [Repealed, 1971 c 339 s 27]  
**31.491** [Repealed, 1971 c 339 s 27]  
**31.492** [Repealed, 1971 c 339 s 27]

## FOOD SALVAGE

### 31.495 REGULATION OF FOOD SALVAGE OPERATIONS.

Subdivision 1. For the purposes of this section, the terms defined in this subdivision have the meanings given them:

(a) "Distressed food" means any food, the label of which has been lost, defaced, or obliterated, or food which has been subjected to possible damage due to accident, fire, flood, adverse weather, or to any other similar cause; or food which is suspected of having been rendered unsafe or unsuitable for food use.

(b) "Reconditionable or salvageable food" is distressed food which it is possible to reclaim for food, feed, or seed use as determined by examination by the commissioner or the commissioner's representatives.

(c) "Reconditioned or salvaged food" is reconditionable or salvageable food which has been reconditioned or salvaged under supervision of the commissioner so as to comply with the standards established under this section.

(d) "Reconditioning" or "salvaging" is the act of cleaning, culling, sorting, scouring, labeling, relabeling, or in any way treating "distressed food" so that it may be deemed to be "reconditioned" or "salvaged food" and therefore is acceptable for sale or use as human food, animal feed, or seed as provided therefor by the commissioner.

(e) "Salvage food processor" is a person who holds a license under section 28A.04 to operate as a salvage food processor and who receives supervision of the salvaging operations from the commissioner.

(f) "Labeling" means any legend or descriptive matter or design appearing upon an article of food or its container, and includes circulars, pamphlets and the like, which are packed and go with the article to the purchaser, and placards which may be allowed to be used to describe the food.

Subd. 2. (a) It is unlawful for any person either to claim to be a salvage food processor, or to engage in the activities of reconditioning or salvaging distressed food, or both, without a license issued under section 28A.04 authorizing that person to operate as a salvage food processor, which license may not be issued absent compliance with all the provisions of this section and all rules promulgated under this section.

(b) Before issuing a license, the commissioner shall determine that the applicant's salvage establishment meets at least the minimum requirements adopted by rule for

such an establishment which shall include but not be limited to adequacy of buildings, location, water supply, waste disposal, equipment, hand washing and toilet facilities, and sanitation practices, as the same relate to the protection of the public health and welfare.

Subd. 3. [Repealed, 1974 c 2 s 8]

Subd. 4. (a) No salvage food processor shall sell distressed food for human food, animal feed, or seed without first notifying the commissioner who shall inspect and examine the distressed food and determine if it needs to be salvaged. If the commissioner determines that the distressed food is reconditionable or salvageable, the commissioner shall issue a stop sale order which shall require the distressed food to be held inviolate pending supervision of the reconditioning or salvaging of the distressed food by the commissioner. If distressed food is found to be in need of salvage and is salvageable, the commissioner shall direct it to be salvaged by any salvage food processor who holds a valid license and is duly authorized by the owner of the food or the owner's agent to salvage it, after which the salvaged food shall be released by the commissioner for sale. If it is found not to be salvageable for human food, it may be salvaged for animal feed or seed, unless it is not suitable for animal feed or seed, in which case the commissioner shall render such distressed food unsalable for use as human food, animal feed, or seed and order it disposed of under the commissioner's supervision.

(b) No person shall offer for sale as human food any distressed food which has been diverted to animal feed or seed use or has been rendered unsalable as human food by the commissioner or the commissioner's assistants.

Subd. 5. This section does not apply to: (a) Any food manufacturer, distributor, or processor who in the normal course of the business of manufacturing, processing, or distributing of food engages in the activities of reconditioning and salvaging distressed food manufactured, distributed or processed by or for that person and not purchased by that person solely for the purpose of reconditioning, salvaging, and sale; or (b) Any person who reassembles or disposes of undamaged food which is from lots in which food or packaging materials or containers are damaged in the normal course of commerce or while in that person's possession and which is not purchased by that person solely for the purpose of reconditioning, salvaging, and sale, or any common carrier or agent of the common carrier who disposes of or otherwise transfers undamaged or distressed food to a person exempt under this section or to a salvage food processor who holds a valid license under this section; or (c) Any person who stores, handles or processes grain or oil seeds in the normal course of business except when such person purchases for the purpose of reconditioning, salvaging, and sale as human food grain or oil seeds contaminated by bird, rodent or animal excreta or by chemicals poisonous, injurious or detrimental to human life or health.

**History:** 1967 c 635 s 1; 1969 c 399 s 1; 1971 c 339 s 22,23; 1974 c 406 s 5,6; 1985 c 248 s 70; 1986 c 444

### 31.50 LIABILITY OF FOOD DONORS.

Subdivision 1. **Definitions.** (a) For the purposes of this section, "distressed food" means, in addition to the definition in section 31.495, certain perishable foods, as defined in section 28A.03, which may not be readily marketable due to appearance, freshness, grade, surplus or other considerations and are not suspect of having been rendered unsafe or unsuitable for food use and are adequately labeled.

(b) For the purposes of this section, "food bank" means a surplus food collection and distribution system operated and established to assist in bringing donated food to nonprofit charitable organizations and individuals for the purpose of reducing hunger and meeting nutritional needs.

(c) For the purposes of this section, "food facility" means:

(1) a restaurant, food establishment, vehicle, vending machine, produce stand, temporary food facility, satellite food distribution facility, stationary mobile food preparation unit, and mobile food preparation unit;

(2) a place used in conjunction with the operations described in clause (1), including, but not limited to, storage facilities for food-related utensils, equipment, and materials; or

(3) a farmers' market.

(d) "Nonprofit charitable organization" means an organization that was organized under the Minnesota nonprofit corporation act and is operating for charitable purposes.

**Subd. 2. Donation; distressed food.** A food manufacturer, distributor, processor or a person who donates or collects distressed food to or for a nonprofit charitable organization for distribution at no charge to the elderly or needy, or who directly distributes distressed food to the elderly or needy at no charge, shall not be liable for any injury, including but not limited to injury resulting from the ingesting of the distressed food, unless the injury is caused by the gross negligence, recklessness or intentional misconduct of the food manufacturer, processor, distributor or person.

**Subd. 3. Distribution.** A food bank or nonprofit charitable organization which in good faith collects or receives and distributes to the elderly or needy, at no charge, food which is fit for human consumption at the time it is distributed, shall not be liable for any injury, including but not limited to injury resulting from the ingesting of the food, unless the injury is caused by the gross negligence, recklessness or intentional misconduct of the food bank or nonprofit charitable organization.

**Subd. 4.** The provisions of this section shall not restrict the authority of the commissioner to regulate or ban the use or consumption of distressed food donated, collected or received for charitable purposes.

**Subd. 5. Other food donation.** A food facility that donates, to a food bank or other nonprofit charitable organization, food which is:

(1) fit for human consumption at the time of donation; and

(2) distributed by the food bank or nonprofit charitable organization to the elderly or needy at no charge;

shall not be liable for any injury, including, but not limited to, liability resulting from ingestion of the food, unless the injury is caused by the gross negligence, recklessness, or intentional misconduct of the food facility.

**History:** 1980 c 497 s 2; 1990 c 555 s 1-4

## SLAUGHTER HOUSES; PACKING PLANTS

### 31.51 DEFINITIONS.

**Subdivision 1.** For the purpose of sections 31.51 to 31.58, the terms defined in this section have the meaning ascribed to them.

**Subd. 2. Slaughter house.** "Slaughter house" means an establishment in which animals other than poultry are slaughtered, eviscerated, or dressed for human food.

**Subd. 3.** "Retail meat market" or "wholesale meat processing establishment" means an establishment with or without slaughtering facilities, where animal carcasses or edible products derived therefrom are cured, salted, processed, packaged, or otherwise prepared for sale as food intended for human consumption; provided, however, that retail meat market or wholesale meat processing establishment does not include: (1) a purveyor of meals, or (2) a frozen food processing plant licensed under section 31.185 and in which no slaughtering operations are conducted.

**Subd. 4.** "Sausage plant" means an establishment in which meats are processed into sausages or other similar products and packed for shipment, storage, or for wholesale sales.

**Subd. 5.** [Repealed, 1969 c 87 s 7]

**Subd. 6.** "Poultry dressing plant" means an establishment in which poultry is killed and dressed for human food.

**Subd. 7.** [Repealed, 1969 c 87 s 7]



Subd. 8. "Rabbit dressing plant" means an establishment in which rabbits are killed and dressed for human food.

Subd. 9. "Animal" means cattle, swine, sheep, goats, horses, mules or other equines.

Subd. 10. "Person" includes firm, corporation, partnership, association, trust, joint stock company, or unincorporated organization.

Subd. 11. [Repealed, 1963 c 598 s 4]

Subd. 12. "Commissioner" means the commissioner of agriculture.

Subd. 13. [Repealed, 1969 c 87 s 7]

Subd. 14. "Purveyor of meals" means a person who cooks or otherwise prepares for sale directly to the consumer meat or poultry products from animals or poultry which have been slaughtered or processed in a state licensed establishment, or an establishment holding a state permit or in an establishment which is under the inspection program of the United States department of agriculture.

**History:** 1955 c 494 s 1; 1959 c 284 s 1-5; 1961 c 113 s 1; 1961 c 560 s 2,3; 1963 c 598 s 1; 1969 c 87 s 1-4; 1983 c 300 s 15

**31.52** [Repealed, 1971 c 339 s 27]

### **31.53 INSPECTIONS; CORRECTIVE ORDERS.**

The commissioner shall at such times as the commissioner deems necessary cause any plant processor or place of business where animal or poultry slaughtering, packing or processing occurs, to be inspected and shall make such order as is necessary to correct unsanitary conditions in any such plant. Each order shall specify the time within which it shall be complied with, and such order shall be served in person or by certified mail. Failure to comply with such orders within the time stated shall be deemed a violation of this section. The commissioner or any of the commissioner's representatives or inspectors may enter any plant or any place of business in which such operations are being conducted, at any reasonable hour for inspection purposes. Free access to every part of the premises shall be afforded and aid and assistance necessary to enable the person making the inspection to make a thorough and complete examination shall be given.

**History:** 1955 c 494 s 3; 1969 c 87 s 6; 1978 c 674 s 60; 1986 c 444

### **31.54 RULES.**

The commissioner may, in order to supplement federal regulation and inspection of any plant, processor or place of business, promulgate rules covering the construction and operation of such plants or processor, the water supply, sanitary conditions and disposal of sewage, offal, vapors, odors and gases and all other sanitary conditions and precautions for the purpose of insuring the purity of the products prepared at any such plant or place of business in which such operations will be or are conducted, where such operations are not then federally inspected or licensed.

**History:** 1955 c 494 s 4

**31.55** [Repealed, 1971 c 339 s 27]

### **31.56 LIMITATION.**

Subdivision 1. **Farmer's own animals.** Sections 31.51 to 31.58 do not apply to a farmer slaughtering the farmer's own rabbits or poultry on the farmer's own farm for: (1) personal use, (2) the use of the farmer's immediate family, or (3) sale directly to the ultimate consumer; or to the farmer slaughtering the farmer's own animals on the farmer's own farm for personal use or the use of the farmer's household and nonpaying guests and employees.

Subd. 2. No animals, poultry, or rabbits that were in a dying condition when

killed, nor animals that have died as a result of accident or of natural causes or disease, shall be accepted, for any purpose whatsoever into any establishment licensed under sections 28A.04 to 28A.10.

Subd. 3. When it is necessary to slaughter an injured animal at a location other than in an approved establishment, the carcass may be accepted into an approved establishment provided that the carcass with the head and all viscera, except the stomach, bladder and intestines, held by the natural attachments is inspected and approved for further processing by a licensed veterinarian.

Subd. 4. Every animal which is eviscerated in a state licensed establishment must have been killed and bled in the establishment.

Subd. 5. Except as provided in this section, no person shall sell, offer for sale, or possess with intent to sell any meat, poultry, or rabbit product unless said product comes from animals, poultry, or rabbits which have been slaughtered or processed in establishments which are licensed by the state or are under the inspection program of the United States Department of Agriculture.

**History:** 1955 c 494 s 6; 1959 c 284 s 7; 1963 c 598 s 3; 1971 c 25 s 14; 1971 c 339 s 24; 1983 c 300 s 16; 1986 c 444

**31.57** [Repealed, 1971 c 339 s 27]

### **31.58 VIOLATIONS, PENALTIES.**

Any person violating any of the provisions of sections 31.51 to 31.56 or any rules made hereunder is guilty of a misdemeanor; and upon conviction, may be punished by a fine of not less than \$25, or by imprisonment in the county jail for not less than 30 days for the first offense, and in the sum of not less than \$50 or by imprisonment in the county jail for not less than 60 days for each subsequent offense.

**History:** 1955 c 494 s 8; 1Sp1981 c 4 art 1 s 39; 1985 c 248 s 70

## **SLAUGHTER OF LIVESTOCK**

### **31.59 HUMANE SLAUGHTER OF LIVESTOCK; DEFINITIONS.**

Subdivision 1. For the purposes of sections 31.59 to 31.592 the following terms have the meanings given them.

Subd. 2. "Slaughterer" means any person, partnership, corporation, or association regularly engaged in the commercial slaughtering of livestock.

Subd. 3. "Livestock" means cattle, horses, swine, sheep and goats.

Subd. 4. "Humane methods" means:

(1) Any method of slaughtering livestock which normally causes animals to be rendered insensible to pain by a single blow of a mechanical instrument or shot of a firearm or by chemical, or other means that are rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or

(2) The methods of preparation necessary to safe handling of the animals for Jewish ritual slaughter and of slaughtering required by the ritual of the Jewish faith, whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

Subd. 5. The use of a manually operated hammer or sledge is declared an inhumane method of slaughter.

**History:** 1959 c 670 s 1

### **31.591 SLAUGHTER MUST BE HUMANE.**

After July 1, 1961, no slaughterer may slaughter livestock or handle livestock in connection with slaughter except by humane method.

**History:** 1959 c 670 s 2

**31.592 PENALTY.**

Any slaughterer who by act or failure to act violates section 31.591 is guilty of a misdemeanor and shall be punished accordingly.

*History: 1959 c 670 s 3*

**MEATS, GENERALLY****31.60 MEAT INDUSTRY DIVISION.**

Subdivision 1. **Division duties; director; personnel.** A meat industry division is created in the department of agriculture which shall enforce and administer laws enforced and administered by the commissioner of agriculture relating to meat, fish, and dressed poultry, except laws enforced and administered by the division of poultry industries. The meat industry division is under the supervision of a director. The commissioner shall appoint the director from the register as certified by the Minnesota department of employee relations, who shall be experienced and knowledgeable in the meat industry.

Subd. 2. [Repealed, 1983 c 260 s 68]

Subd. 3. [Repealed, 1983 c 260 s 68]

*History: Ex1967 c 36 s 1; 1973 c 507 s 45; 1975 c 271 s 6; 1975 c 315 s 5,6; 1980 c 617 s 47*

**31.601 PROTECTION OF MEAT.**

Every dealer in meats, fish, fowl, or game for human food, at the place of offering or exposing for sale, and in the transportation of such food from place to place to customers, shall protect the same from dust, flies, and other vermin or substance which may injuriously affect it, by securely covering it while being so offered or exposed for sale or transported. Every violation of the foregoing provision shall be a misdemeanor.

*History: (3825) 1921 c 495 s 36*

**31.602 SALE OF UNWHOLESOME POULTRY OR GAME.**

Every person who shall offer or expose for sale at retail, for human food, at any public market, store, shop, or house, or in or about any street or other public place, any domestic or wild fowls, or any slaughtered rabbits, squirrels, or other small animals, wild or tame, unless the entrails, crops, or other offensive parts are properly drawn and removed shall be guilty of a misdemeanor.

*History: (10251) RL s 4994*

**31.611 VEAL.**

No person shall sell, offer or expose for sale, or have in possession with intent to sell, the veal of calves killed when less than four weeks old. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and shall be fined not less than \$50, or by imprisonment for not less than 60 days.

*History: (3826) 1921 c 495 s 37*

**31.621 SALE OF HORSE MEAT FOR HUMAN CONSUMPTION.**

Subdivision 1. **Requirements.** It shall be unlawful for any person to sell, offer or expose for sale, or have in possession with intent to sell, horse meat for human consumption:

(a) Unless a sign is posted in a conspicuous place both inside and outside the store, eating establishment, or building in which said meat is sold or offered or exposed for sale, reading "horse meat sold here";

(b) Unless the counter or container in which the same is offered or exposed for sale is plainly and conspicuously marked with the words "horse meat" and no other meat

of any kind shall be placed in the same container with horse meat; if horse meat is placed in the same counter with other cuts of meat each cut shall be plainly labeled "horse meat";

(c) Unless all packages, boxes or containers in which horse meat is delivered to the purchaser shall be plainly and conspicuously marked with the words "horse meat."

**Subd. 2. Sales in restaurants and boarding houses.** It shall be unlawful for any restaurant, boarding house or other place where food is served to the public to prepare or serve horse meat to any customer or patron unless a sign is posted in a conspicuous place, both inside and outside the building or restaurant in which such meat is prepared and sold reading "horse meat served here," and unless the same words are printed or typed on all menus used therein.

**Subd. 3. Mixed meat.** In the event that horse meat is mixed with any other kind of meat, the mixture shall be considered as horse meat and its sale, preparation or serving shall be subject to all of the provisions of this section.

**Subd. 4. Enforcement.** The commissioner shall enforce the provisions of this section.

**Subd. 5. Violation a misdemeanor.** Any person violating any of the provisions of this section shall be deemed guilty of a gross misdemeanor.

**History:** 1943 c 446 s 1-5; 1959 c 606 s 10; 1961 c 144 art 2 s 18; 1965 c 45 s 3

### **31.631 HORSE MEAT INTENDED FOR OTHER THAN HUMAN CONSUMPTION.**

**Subdivision 1. Preparation.** It shall be unlawful for any person to offer or expose for sale, or possess or traffic in, any horse meat with intent to use or sell the same for other than human consumption unless it is denatured or decharacterized so as to make it readily distinguishable from horse meat intended for human consumption, or unless it complies with federal laws and regulations applicable thereto.

**Subd. 2. Labels.** All packing boxes and containers containing denatured horse meat shall bear thereon in a conspicuous manner in bold face type not less than one-half inch in height the statement "FOR ANIMAL FOOD ONLY." Such statement shall be printed or form a part of the main label affixed to or stamped on such packing boxes or containers, or shall be stamped on the same end or side of such packing boxes or containers that such main label is affixed or stamped thereon.

**Subd. 3. Inspection.** For obtaining information regarding compliance with law the commissioner of agriculture, and any of the commissioner's agents, representatives or employees, shall have access to all places, buildings or premises, and to all wagons, automobiles, vehicles or cars used in the preparation, production, distribution, transportation, exposing for sale or sale of any horse meat not intended for sale or use for human consumption and shall have such other authority as is provided in section 31.04.

**Subd. 4. Violation, penalty.** Any person violating any provisions of this section shall be guilty of a gross misdemeanor.

**History:** 1953 c 583 s 1-4; 1961 c 113 s 1; 1986 c 444

### **31.632 MINNESOTA APPROVED MEATS; USE OF LABEL.**

The commissioner may authorize, pursuant to rules promulgated in the manner provided by law, the use of the label "Minnesota Approved" on meats and meat products processed by persons licensed under sections 31.51 to 31.58, or by establishments under the inspection program of the United States Department of Agriculture, if the ingredients of such meats and meat products are meat, meat by-products, or meat food products which have been inspected and passed by the United States Department of Agriculture, or the Minnesota department of agriculture and further if such meats and meat products, after such processing, are sound, healthful, wholesome, and fit for human food. A person or establishment desiring to label meats and meat products as provided in this section shall apply to the commissioner for authority to do so. The

commissioner shall grant this authority to the applicant if the applicant complies with the provisions of this section and rules promulgated pursuant to this section. A person using the label "Minnesota Approved" on meat and meat products contrary to law is guilty of a misdemeanor.

**History:** 1963 c 187 s 1; 1969 c 663 s 1; 1985 c 248 s 70

### **31.633 MEAT SUBSTITUTES; INDICATION ON MENU; PENALTIES.**

Subdivision 1. Any restaurant, eating place or other establishment serving meat in any form to the public, which meat has any filler or meat substitute added to it or incorporated in it, shall clearly and prominently indicate on its menu or bill of fare the meat entrees that contain filler or meat substitutes.

Subd. 2. Any person who violates the provisions of subdivision 1 is guilty of a misdemeanor.

**History:** 1975 c 133 s 1

## **KOSHER FOODS**

### **31.651 KOSHER PRODUCTS, UNLAWFUL SALE.**

Subdivision 1. No person shall sell or expose for sale any meat or meat preparations and falsely represent the same to be kosher, whether such meat or meat preparations be raw or prepared for human consumption; nor shall the person permit any such products or the contents of any package or container to be labeled or to have inscribed thereon the word "kosher" in any language unless such products shall have been prepared or processed in accordance with orthodox Hebrew religious requirements sanctioned by a recognized rabbinical council.

Subd. 2. Any person who sells or exposes for sale in the same place of business both kosher and nonkosher meat or meat preparations, either raw or prepared for human consumption, shall indicate on window signs and all display advertising, in block letters at least four inches in height, "kosher and nonkosher meat sold here"; and shall display over each kind of meat or meat preparation so exposed a sign, in block letters at least two inches in height, reading, "kosher meat," or "nonkosher meat," as the case may be; provided that subdivision 2 shall not apply to persons selling or offering for sale kosher meats or meat products solely in separate consumer packages, which have been pre-packaged and properly labeled "kosher."

Subd. 3. Possession of nonkosher meat or meat preparations in any place of business shall be presumptive evidence that the person in possession thereof exposes the same for sale.

Subd. 4. The absence of a duly sanctioned kosher "plumba," mark, stamp, tag, brand or label from any meat, meat preparation or food product shall be prima facie evidence that such product is nonkosher.

**History:** (3826-1) 1929 c 398 s 1; 1959 c 563 s 1; 1986 c 444

### **31.661 MARKS, STAMPS, TAGS, BRANDS, OR LABELS.**

No person shall:

(1) Willfully mark, stamp, tag, brand, label or in any other way or by any other means of identification, represent or cause to be marked, stamped, tagged, branded, labeled or represented as kosher or as having been prepared in accordance with the orthodox Hebrew religious requirements food or food products not kosher or not so prepared, or

(2) Willfully remove, deface, obliterate, cover, alter, or destroy or cause to be removed, defaced, obliterated, covered, altered or destroyed the original slaughterhouse plumba or any other mark, stamp, tag, brand, label or any other means of identification affixed to foods or food products to indicate that such foods or food products are kosher or have been prepared in accordance with the orthodox Hebrew religious requirements, or

(3) Knowingly sell, dispose of or possess, for the purpose of resale to any person as kosher, any food or food products not having affixed thereto the original slaughterhouse plumba or any other mark, stamp, tag, brand, label or other means of identification employed to indicate that such food or food products are kosher or have been prepared in accordance with the orthodox Hebrew religious requirements or any food or food products to which such plumba, mark, stamp, tag, brand, label or other means of identification has or have been fraudulently affixed.

**History:** 1959 c 563 s 2; 1986 c 444

### 31.671 RULES.

The commissioner of agriculture shall have the power to promulgate rules for the purpose of carrying out the provisions of sections 31.651 to 31.681.

**History:** 1959 c 563 s 3; 1961 c 113 s 1; 1985 c 248 s 70

### 31.681 VIOLATIONS.

Any person violating the provisions of sections 31.651 to 31.681 or the rules made pursuant thereto shall be guilty of a misdemeanor.

**History:** 1959 c 563 s 4; 1985 c 248 s 70

## HONEY

### 31.73 STANDARDS AND GRADES FOR HONEY.

Subdivision 1. **Adoption of standards and grades.** In order to protect the public health and welfare, to promote the bee industry in Minnesota, and to secure uniformity, the commissioner of agriculture may adopt standards and grades for honey which is sold, offered for sale, or kept for sale. Before adopting any standards or grades therefor said commissioner of agriculture shall hold a public hearing thereon as provided by law.

Subd. 2. **Honey to conform to standards and grades.** All honey sold or kept for sale shall conform to the standards and grades so adopted.

Subd. 3. **Enforcement.** The commissioner of agriculture shall enforce the provisions of this section, including the standards and grades so adopted.

Subd. 4. **Violation a misdemeanor.** Any person, firm, or corporation violating any of the provisions of this section or the standards and grades adopted by authority thereof shall be guilty of a misdemeanor.

**History:** 1953 c 210 s 1-4; 1961 c 113 s 1; 1961 c 144 art 2 s 15

### 31.74 SALE OF IMITATION HONEY.

Subdivision 1. **Honey defined.** As used in this section "honey" means the nectar and saccharine exudation of plants, gathered, modified and stored in the comb by honey bees, which is levorotatory, contains not more than 25 percent of water, not more than 25/100 percent of ash, and not more than eight percent sucrose.

Subd. 2. **Prohibited sale.** Notwithstanding any law or rule to the contrary, it is unlawful for any person to sell or offer for sale any product which is in semblance of honey and which is labeled, advertised, or otherwise represented to be honey, if it is not honey. The word "imitation" shall not be used in the name of a product which is in semblance of honey whether or not it contains any honey. The label for a product which is not in semblance of honey and which contains honey may include the word "honey" in the name of the product and the relative position of the word "honey" in the product name, and in the list of ingredients, when required, shall be determined by its prominence as an ingredient in the product.

Subd. 3. **Enforcement, injunctive relief.** The commissioner of agriculture shall enforce the provisions of this section and may enjoin the sale or offer for sale of any product packaged, labeled or advertised in violation of this section.

**History:** 1974 c 71 s 1; 1985 c 248 s 70

## DIETARY FOODS

**31.75 ARTIFICIAL SWEETENING; LABELING; RULES.**

Subdivision 1. It is lawful for any person, firm, or corporation to manufacture and sell, or cause to be sold, within the state any article of food or beverage intended for human consumption as a special dietary product when such food or beverage is sweetened or made palatable with saccharin, sulfamate, or other artificial sweetening product approved by the commissioner of agriculture, when saccharin, sulfamate, or other approved artificial sweetening product is completely substituted for sugar or other nutritive sweetener in any defined article of food or beverage. The container in which any such food or beverage is sold or offered for sale to the public shall be clearly, legibly, and noticeably labeled. Such label shall contain the following information:

“FOR DIETARY PURPOSES,” or “FOR DIETETIC USE,” or “ARTIFICIALLY SWEETENED,” or substantially similar statements approved by the commissioner, and a statement that the product contains (Name of approved artificial form of sweetening product), and a statement to the effect that the food contains a nonnutritive artificial sweetener, for use by persons who desire to restrict their intake of ordinary sweets.

Subd. 2. For the purpose of protecting the public interest in the manufacture, use, sale and transportation of food and promoting the free flow of approved foods in interstate commerce, and cooperation with the secretary of the United States Department of Agriculture and the commissioner of food and drugs of the United States Food and Drug Administration, the commissioner may prescribe, according to law and rules for the use of nutritive sweeteners and approved artificial, nonnutritive sweeteners separately or in combination in food, which are consistent as is practicable with the rules and regulations established under federal laws.

**History:** 1953 c 323 s 1; 1961 c 112 s 1; 1961 c 113 s 1; 1969 c 91 s 1; 1969 c 1067 s 1; 1985 c 248 s 70

## CONFECTIONS CONTAINING ALCOHOL

**31.76 CONFECTIONS CONTAINING ALCOHOL.**

Subdivision 1. **Definition.** “Confection containing alcohol” is a confection that contains or bears not more than five percent alcohol by volume where the alcohol is in a nonliquid form by reason of being mixed with other substances in the manufacture of the confection. “Confection containing alcohol” does not include liqueur-filled candy as defined in section 340A.101, subdivision 15b.

Subd. 2. **Regulations.** (a) A confection containing alcohol may not be sold to any person under the age of 21 years.

(b) Each confection containing alcohol must bear a label that contains (i) a conspicuous, readily legible statement that reads “This product may not be sold to anyone under age 21 years of age,” and (ii) a conspicuous, readily legible statement to the effect that the product contains less than five percent alcohol by volume.

(c) A confection containing alcohol may be sold only by (i) an exclusive liquor store licensed under chapter 340A, or (ii) a business establishment that derives more than 50 percent of its gross sales from the sale of confections.

**History:** 1992 c 486 s 3

## BAKERIES

**31.77 SANITATION AND PRODUCTS STANDARDS.**

No city or other lawful authority may require sanitary requirements for bakeries, appurtenances, distribution vehicles, and bakery products, or standards of identity or labeling requirements for bakery products, which are not consistent with laws of this state administered by the state department of agriculture or rules promulgated by the

commissioner of agriculture. Within 90 days after May 18, 1967, the commissioner shall promulgate rules relating to sanitary requirements for bakeries, appurtenances, distribution vehicles, bakery products, standards of identity and labeling requirements for bakery products which are at least equal to and no lower than those fixed by the Food and Drug Administration of the United States Department of Health, Education, and Welfare.

*History: 1967 c 522 s 1; 1973 c 123 art 5 s 7; 1985 c 248 s 70*

### QUALITY ASSURANCE DATING

#### 31.781 DECLARATION OF POLICY.

The legislature recognizes the entire food industry in the nation as leaders in the world in providing wholesome, nutritious, fresh and clean food to its citizens and to others. The Minnesota department of agriculture is hereby authorized and directed to promulgate rules which provide for a quality assurance date on perishable foods, to assure this industry's continuation and the degree of improvement reasonable and feasible, so as to provide people with wholesome, nutritious, fresh and clean food.

*History: 1973 c 686 s 1; 1985 c 248 s 70*

#### 31.782 DEFINITIONS.

Subdivision 1. As used in sections 31.781 to 31.789, the following terms shall have the meanings ascribed to them.

Subd. 2. "Commissioner" means the commissioner of agriculture or designee.

Subd. 3. "Perishable food" means any food intended for human consumption (other than meat and poultry, frozen food, or fresh fruit or vegetables), which has a quality assurance date.

Subd. 4. "Quality assurance date" means any date after which the manufacturer or processor reasonably determines that the product may, by spoilage, wiltage, drying or any other foreseeable and normal natural phenomenon, lose its palatability or its desired or nutritive properties. The date shall include the day, month, and, if appropriate, the year.

*History: 1973 c 686 s 2*

#### 31.783 RULES, SCOPE.

Subdivision 1. The commissioner shall administer and enforce the provisions of sections 31.781 to 31.789 by rules adopted prior to October 1, 1973 pursuant to the administrative procedure act.

Subd. 2. Perishable foods which bear a quality assurance date of 90 days or less from the date of packaging shall be dated in accordance with the rules adopted pursuant to sections 31.781 to 31.789.

Subd. 3. Perishable foods which bear a quality assurance date of more than 90 days from the date of packaging may require dating in accordance with rules adopted pursuant to sections 31.781 to 31.789.

Subd. 4. Whenever the commissioner has reason to believe that any rule adopted pursuant to sections 31.781 to 31.789 is inappropriate or unsuitable to any particular perishable food product or products, the commissioner may, in accordance with the administrative procedure act, waive the application of such rules as to such product or products.

*History: 1973 c 686 s 3; 1985 c 248 s 70*

#### 31.784 EXPIRATION OF QUALITY ASSURANCE DATE.

Nothing contained in sections 31.781 to 31.789 or any rule adopted pursuant hereto shall require the removal from sale of a perishable food product after the expiration of the quality assurance date on the product nor imply that after the expiration



of the quality assurance date on the product, the product is not wholesome or safe for human consumption.

**History:** 1973 c 686 s 4; 1985 c 248 s 70

### **31.785 REGULATIONS OF OTHER STATES AND THE FEDERAL GOVERNMENT.**

If any other state, or the federal government, adopts an open dating statute or regulation which provides for information and enforcement equal to or greater than that of sections 31.781 to 31.789, the commissioner may, by rule, exempt any product from the provisions of sections 31.781 to 31.789 if it is in compliance with such other statute or regulation.

**History:** 1973 c 686 s 5; 1985 c 248 s 70

### **31.786 LOCAL ORDINANCES PREEMPTED.**

No subordinate unit of government may adopt or enforce any rule or ordinance regarding open dating of perishable foods other than sections 31.781 to 31.789.

**History:** 1973 c 686 s 6

### **31.787 ENFORCEMENT.**

In enforcing the provisions of sections 31.781 to 31.789, the commissioner may receive complaints and investigate possible violations. The commissioner and the commissioner's employees shall have reasonable access to all places wherein any item of perishable food regulated pursuant to sections 31.781 to 31.789 is sold or held or offered for sale, and may take samples of perishable food for analysis. The attorney general, acting for the commissioner, or any municipal or county official responsible for the enforcement of rules or ordinances, may bring an action to restrain violations of sections 31.781 to 31.789.

**History:** 1973 c 686 s 7; 1986 c 444

### **31.788 PENALTIES.**

Any person injured by a violation of sections 31.781 to 31.789 may bring a civil action and recover damages, together with costs and disbursements.

**History:** 1973 c 686 s 8

### **31.789 EXEMPTION.**

Nothing in sections 31.781 to 31.789 shall apply to any sale exempt from a license by the Minnesota Constitution, article 13, section 7.

**History:** 1973 c 686 s 9; 1976 c 2 s 172

## **BULK FOOD SALES**

### **31.80 DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 31.80 to 31.875, the terms defined in this section have the meanings given them.

Subd. 2. **Bulk food.** "Bulk food" means unpackaged and unwrapped food in aggregate containers from which quantities are withdrawn by the consumer, excluding fresh fruits, fresh vegetables, nuts in the shell, and food in salad bars.

Subd. 3. **Product module.** "Product module" means a multiuse or single service food contact container designed for customer self-service of bulk food by either direct or indirect means.

**History:** 1984 c 476 s 1

**31.81 SCOPE.**

Sections 31.80 to 31.875 apply to persons required to be licensed as retail food handlers under chapter 28A.

*History: 1984 c 476 s 2*

**31.82 LABELING.**

Bulk food product modules must be conspicuously labeled with the common name of the product, a list of ingredients in order of predominance, and a declaration of artificial color or flavor and any chemical preservatives contained in the product. This section does not apply to bulk food manufactured on the premises or manufactured by the same person.

*History: 1984 c 476 s 3*

**31.83 PROTECTION.**

**Subdivision 1. Containers and display.** Bulk food and product modules must be protected from contamination during display, customer self-service, refilling, and storage. Each product module must have a tight-fitting lid that is kept in a closed position at all times except during stocking and customer service. Containers supplied by customers may not be used by others in a manner that contaminates bulk food. Take-home containers, including bags, cups, and lids, provided for customer use must be stored and dispensed in a sanitary manner. Pet food and nonfood items must be separated from product modules and bulk food.

**Subd. 2. Food sold as bulk food.** Food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms may not be sold as bulk food. Clean, whole, uncracked, odor-free shell eggs and food that has a pH level of 4.6 or below or a water activity value of 0.85 or less at 25 degrees centigrade may be sold as bulk food. Bulk food removed from a product module by a consumer may not be offered for resale.

*History: 1984 c 476 s 4*

**31.84 DISPENSING.**

**Subdivision 1. Dispensing devices.** Bulk food may be dispensed by: mechanical dispensing devices including gravity dispensers, pumps, extruders, and augers; or manual dispensing utensils including tongs, scoops, ladles, and spatulas.

**Subd. 2. Utensils.** A manual dispensing utensil must have a handle long enough to avoid consumer contact with the bulk food. When not in use, dispensing utensils must be stored either in the food with the handle extended out of the food, or in a protective enclosure attached or adjacent to the display unit with the utensil on a tether of easily cleanable material short enough to prevent contact with the floor.

*History: 1984 c 476 s 5*

**31.85 CONSTRUCTION; MATERIALS.**

**Subdivision 1. Product modules and utensils.** Product modules and utensils must be metal or plastic and corrosion resistant, nonabsorbent, smooth, easily cleanable, and durable under conditions of normal use. They may not impart odors, color, taste, or contamination to the food. Product modules must be easily removable from the display unit for servicing unless they can be effectively cleaned and sanitized without removal by a procedure that will not contaminate bulk food or related equipment.

**Subd. 2. Noncontact surfaces.** Surfaces of product module display units, tethers, and all display equipment not intended for food contact, but exposed to food debris or other soiling, must be nonabsorbent, smooth, cleanable, durable under conditions of normal use, and free of unnecessary ledges, projections, and crevices. Tethers must be easily removable for cleaning. Racks that hold food containers must be constructed

of material that is smooth, easily cleanable, and nonabsorbent. The materials for surfaces that do not come in contact with food must be nonabsorbent or made nonabsorbent by being finished and sealed with a cleanable coating.

**History:** 1984 c 476 s 6

### **31.86 CLEANING FREQUENCY.**

Except in municipalities with less than 1,000 inhabitants, or in towns, manual dispensing utensils and tethers must be cleaned and sanitized at least daily, or at more frequent intervals based on the type of food and the food particle accumulation or soiling. Manual dispensing utensils and tethers in retail stores in municipalities with less than 1,000 inhabitants, or in towns, shall be cleaned and sanitized at frequent intervals based on the types of food and the food particle accumulation or soiling. Product modules, lids, and other equipment must be cleaned prior to restocking, when soiled, or at intervals on a schedule based on the type of food and amount of food particle accumulation. Food contact surfaces must be cleaned and sanitized immediately if contamination is observed or suspected.

**History:** 1984 c 476 s 7

### **31.87 SIGN.**

A sign must be posted conspicuously within the immediate display area directing customers for health reasons to use the utensils provided when serving themselves, not to handle the food directly, and not to consume food on the premises.

**History:** 1984 c 476 s 8

### **31.874 DISEASE CONTROL.**

If the commissioner of agriculture finds that a disease or foreign matter is actually transmitted by a method of dispensing bulk foods that is permitted by section 31.84, the commissioner may adopt emergency or permanent rules more restrictive on the sale of that food than section 31.84. The rules must address the specific relationship between the disease or foreign matter being transmitted and the dispensing methods permitted by section 31.84.

**History:** 1984 c 476 s 9; 1984 c 640 s 32

### **31.875 LOCAL STANDARDS.**

A local unit of government may not adopt standards governing persons, facilities, or activities covered by sections 31.80 to 31.874 that conflict with the provisions in sections 31.80 to 31.874.

**History:** 1984 c 476 s 10

## **CONSTRUCTION; PENALTIES**

**31.90** [Repealed, 1965 c 45 s 73]

### **31.903 EVIDENCE OF INTENT; ACT OF AGENT THAT OF PRINCIPAL.**

No person who shall commit or assist in committing any offense defined in the laws relating to food administered by the department of agriculture, shall be exempt from conviction and punishment therefor for the reason that the person acted as the agent, employee, or representative of another. When construing and enforcing the provisions thereof, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, copartnership, company, society, or association within the scope of an employment or office, shall, in every case, be also deemed to be the act, omission, or failure of such corporation, copartnership, company, society, or association, as well as that of the person.

The having in possession of any article, the manufacture, sale, use or transporta-

tion of which is restricted, regulated, or forbidden thereunder shall be deemed prima facie evidence of intent to sell, manufacture, transport, or use the same in violation of laws.

**History:** (3871) 1921 c 495 s 84; 1961 c 113 s 1; 1961 c 144 art 6 s 2; 1986 c 444

**31.905** [Repealed, 1965 c 45 s 73]

### 31.91 PENALTIES.

Subdivision 1. Except where otherwise specifically provided, any person violating, or failing to comply with, any of the provisions of this chapter or any act amendatory thereof, or any of the provisions of any of the rules, definitions, standards, or rulings made and filed with the secretary of state thereunder, shall be guilty of a misdemeanor. Each separate violation of this chapter, or any act amendatory thereof, shall be, unless otherwise specifically provided therein, a separate offense, except that in the case of a violation through continuing failure or neglect to obey the provisions of this chapter, or any act amendatory thereof, each day of continuance of such failure or neglect shall be deemed a separate offense.

Subd. 2. In addition to the remedies herein provided, the commissioner may commence proceedings in the district court of any county in which any violation of this chapter, or any act amendatory thereof, has occurred or is threatening to occur for a temporary or permanent injunction against any person violating or threatening to violate any provision of this chapter, or any act amendatory thereof.

**History:** (3809) 1921 c 495 s 20; 1949 c 229 s 3; 1953 c 518 s 4; 1961 c 144 art 6 s 4,5; 1985 c 248 s 70

## ORGANIC FOOD

### 31.92 DEFINITIONS.

Subdivision 1. **Scope.** As used in sections 31.92 to 31.94, the terms defined in this section have the meanings given.

Subd. 1a. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subd. 2. **Department.** "Department" means the department of agriculture.

Subd. 2a. **Minnesota grown.** "Minnesota grown" means a product licensed to use the logo or labeling statement under section 17.102, subdivision 1.

Subd. 3. **Organic food.** "Organic food" means any food product, including meat, dairy, and beverage, that is marketed using the term "organic" or any derivative of "organic" in its labeling or advertising.

Subd. 4. **Producer.** "Producer" means a person who is responsible for growing or raising organic food.

Subd. 5. **Vendor.** "Vendor" means anyone who sells organic food to the consumer or another vendor.

**History:** 1985 c 237 s 3; 1990 c 547 s 1,2

### 31.93 REQUIREMENTS.

Subdivision 1. **Growth; composition.** Organic food must be grown, raised, or composed of ingredients that were grown or raised without the use of synthetic fertilizers, pesticides, hormones, antibiotics, growth stimulants, and arsenicals. Other natural substances, such as diatomaceous earth, soaps, elemental sulfur, lime sulfur, and basic copper sulfate may be used in the growing of organic food.

Where untreated seed is unavailable, treated seed may be used.

Soil on which organic food is grown or raised must have been free of synthetic fertilizers, pesticides, hormones, antibiotics, growth stimulants, and arsenicals for at least one year. After March 31, 1987, the soil must have been free of those synthetics for at

least two years. After March 31, 1988, the soil must have been free of those synthetics for at least three years.

Subd. 2. **Information.** Growers, manufacturers, and sellers of products regulated by sections 31.92 to 31.94 shall provide the department, upon demand, with relevant information from records required under subdivision 2.

Subd. 3. **Storage.** Organic food may be stored in a regular, cold, or controlled atmosphere. If fumigation is needed, only diatomaceous earth or inert gas may be used.

**History:** 1985 c 237 s 4

### 31.94 COMMISSIONER DUTIES.

The commissioner shall enforce sections 31.92 to 31.95. The commissioner shall withhold from sale or trade any product sold, labeled, or advertised in violation of sections 31.92 to 31.95.

The commissioner shall investigate the offering for sale, labeling, or advertising of an article or substance as organically grown, organically processed, or produced in an organic environment if there is reason to believe that action is in violation of sections 31.92 to 31.95.

The commissioner may adopt rules, including emergency rules, that further clarify organic food standards and marketing practices.

**History:** 1985 c 237 s 5; 1990 c 547 s 3

## ORGANIC CERTIFICATION

### 31.95 ORGANIC CERTIFICATION.

Subdivision 1. **Designation.** The commissioner shall designate one or more organizations made up of organic food growers, manufacturers, or sellers, to certify organically grown seeds, products, and food.

Subd. 2. [Repealed by amendment, 1990 c 547 s 4]

Subd. 3. **Certification requirement.** An organic certification agency may not refuse services or certification to a person:

- (1) whose seeds, products, and food meet certification requirements; and
- (2) who has paid certification fees.

Subd. 3a. **Certification organizations.** (a) A Minnesota grown organic product that is labeled "certified" must be certified by a designated certification organization.

(b) A certified organic product sold in this state must be certified by a designated certification organization or by a certification organization approved by the commissioner. Before approving a certification organization, the commissioner must seek the evaluation and recommendation of the Minnesota organic advisory task force.

(c) The commissioner shall appoint a Minnesota organic advisory task force composed of members of the organic industry to advise the commissioner on organic issues. Members of the task force may not be paid compensation or costs for expenses.

Subd. 4. **Rules.** The organic certification organization may draft rules for submission to the commissioner to adopt for implementation of the organically grown certification program.

**History:** 1988 c 688 art 8 s 1; 1990 c 547 s 4