

CHAPTER 32

DAIRY PRODUCTS

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32.105 MILK PROCUREMENT FEE.

Each dairy plant operator within the state must pay to the commissioner on or before the 18th of each month a fee of .71 cents per hundredweight of milk purchased the previous month. If a milk producer within the state ships milk out of the state for sale, the producer must pay the fee to the commissioner unless the purchaser voluntarily pays the fee.

Producers who ship milk out of state or processors must submit monthly reports as to milk purchases along with the appropriate procurement fee to the commissioner. The commissioner may have access to all relevant purchase or sale records as necessary to verify compliance with this section and may require the producer or purchaser to produce records as necessary to determine compliance.

The fees collected under this section must be deposited in the dairy services account in the agricultural fund. Money in the account, including interest earned, is appropriated to the commissioner to administer this chapter.

History: 1Sp2001 c 2 s 56

32.11 [Repealed, 1Sp2001 c 2 s 162]

32.12 [Repealed, 1Sp2001 c 2 s 162]

32.18 [Repealed, 1Sp2001 c 2 s 162]

32.19 [Repealed, 1Sp2001 c 2 s 162]

32.20 [Repealed, 1Sp2001 c 2 s 162]

32.203 [Repealed, 1Sp2001 c 2 s 162]

32.204 [Repealed, 1Sp2001 c 2 s 162]

32.206 [Repealed, 1Sp2001 c 2 s 162]

32.208 [Repealed, 1Sp2001 c 2 s 162]

32.21 ADULTERATED DAIRY PRODUCTS.

[For text of subs 1 to 3, see M.S.2000]

Subd. 4. **Penalties.** (a) A person, other than a milk producer, who violates this section is guilty of a misdemeanor or subject to a civil penalty up to \$1,000.

(b) A milk producer may not change milk plants within 30 days, without permission of the commissioner, after receiving notification from the commissioner under paragraph (c) or (d) that the milk producer has violated this section.

(c) A milk producer who violates subdivision 3, clause (1), (2), (3), (4), or (5), is subject to clauses (1) to (3) of this paragraph.

(1) Upon notification of the first violation in a 12-month period, the producer must meet with the dairy plant field service representative to initiate corrective action within 30 days.

(2) Upon the second violation within a 12-month period, the producer is subject to a civil penalty of \$300. The commissioner shall notify the producer by certified mail stating the penalty is payable in 30 days, the consequences of failure to pay the penalty, and the consequences of future violations.

(3) Upon the third violation within a 12-month period, the producer is subject to an additional civil penalty of \$300 and possible revocation of the producer's permit or certification. The commissioner shall notify the producer by certified mail that all civil penalties owed must be paid within 30 days and that the commissioner is initiating administrative procedures to revoke the producer's permit or certification to sell milk for at least 30 days.

(d) The producer's shipment of milk must be immediately suspended if the producer is identified as an individual source of milk containing residues causing a bulk load of milk to test positive in violation of subdivision 3, clause (6) or (7). The Grade A or manufacturing grade permit must be converted to temporary status for not more than 30 days and shipment may resume only after subsequent milk has been sampled by the commissioner or the commissioner's agent and found to contain no residues above established tolerances or safe levels.

The Grade A or manufacturing grade permit may be restored if the producer completes the "Milk and Dairy Beef Residue Prevention Protocol" with a licensed veterinarian, displays the signed certificate in the milkhouse, and sends verification to the commissioner within the 30-day temporary permit status period. If the producer does not comply within the temporary permit status period, the Grade A or manufacturing grade permit must be suspended. A milk producer whose milk supply is in violation of subdivision 3, clause (6) or (7), and has caused a bulk load to test positive is subject to clauses (1) to (3) of this paragraph.

(1) For the first violation in a 12-month period, the penalty is the value of all milk on the contaminated load plus any costs associated with the disposition of the contaminated load. Future pick-ups are prohibited until subsequent testing reveals the milk is free of drug residue. A farm inspection must be completed by the plant representative and the producer to determine the cause of the residue and actions required to prevent future violations.

(2) For the second violation in a 12-month period, the penalty is the value of all milk on the contaminated load plus any costs associated with the disposition of the contaminated load. Future pick-ups are prohibited until subsequent testing reveals the milk is free of drug residue. A farm inspection must be completed by the regulatory agency or its agent to determine the cause of the residue and actions required to prevent future violations.

(3) For the third violation in a 12-month period, the penalty is the value of all milk on the contaminated load plus any costs associated with the disposition of the contaminated load. Future pick-ups are prohibited until subsequent testing reveals the milk is free of drug residue. The commissioner or the commissioner's agent shall also notify the producer by certified mail that the commissioner is initiating administrative procedures to revoke the producer's right to sell milk for a minimum of 30 days.

(4) If a bulk load of milk tests negative for residues and there is a positive producer sample on the load, no civil penalties may be assessed to the producer. The plant must report the positive result within 24 hours and reject further milk shipments from that producer until the producer's milk tests negative. A farm inspection must be completed by the plant representative and the producer to determine the cause of the residue and actions required to prevent future violations. The department shall suspend the producer's permit and count the violation on the producer's record. The Grade A or manufacturing grade permit must be converted to temporary status for not more

than 30 days during which time the producer must review the "Milk and Dairy Beef Residue Prevention Protocol" with a licensed veterinarian, display the signed certificate in the milkhouse, and send verification to the commissioner. If these conditions are met, the Grade A or manufacturing grade permit must be reinstated. If the producer does not comply within the temporary permit status period, the Grade A or manufacturing grade permit must be suspended.

(e) A milk producer that has been certified as completing the "Milk and Dairy Beef Residue Prevention Protocol" within 12 months of the first violation of subdivision 3, clause (7), need only review the cause of the violation with a field service representative within three days to maintain Grade A or manufacturing grade permit and shipping status if all other requirements of this section are met.

(f) Civil penalties collected under this section must be deposited in the milk inspection services account established in this chapter.

History: *1Sp2001 c 2 s 57.*

32.392 APPROVAL OF DAIRY PLANTS.

No person shall operate a dairy plant in this state unless the dairy plant, and the equipment, water supply and plumbing system connected therewith shall have been first approved by the commissioner and a permit issued to operate the same. At the time of filing the application for a permit, the applicant shall submit to the commissioner duplicate floor plans of such plant which shall show the placement of equipment, the source of water supply and method of distribution, and the location of the plumbing system, including the disposal of wastes. All new construction or alteration of any existing dairy plants shall be made only with the approval of the commissioner and duplicate plans for such construction or alteration shall be submitted to the commissioner for approval. Any permit may be revoked by the commissioner for due cause after the holder of the permit has been given the opportunity for a hearing, in which case the holder of the permit shall be notified in writing, at least seven days prior to the date of such hearing, of the time and place of such hearing.

The fee for approval services is \$45 per hour of department staff time spent in the approval process. The fees must be deposited in the dairy services account in the agricultural fund. Money in the account, including interest earned, is appropriated to the commissioner to administer this chapter.

History: *1Sp2001 c 2 s 58.*

32.394 GRADE A PASTEURIZED MILK.

[For text of subs 1 to 3, see M.S.2000]

Subd. 4. **Rules.** The commissioner shall by rule promulgate identity, production and processing standards for milk, milk products and goat milk which are intended to bear the Grade A label.

In the exercise of the authority to establish requirements for Grade A milk, milk products and goat milk, the commissioner adopts definitions, standards of identity, and requirements for production and processing contained in the "1999 Grade A Pasteurized Milk Ordinance" and the "1995 Grade A Condensed and Dry Milk Ordinance" of the United States Department of Health and Human Services, in a manner provided for and not in conflict with law.

[For text of subs 5 to 8, see M.S.2000]

Subd. 8a. **Laboratory certification.** A laboratory, before conducting a test the results of which are to be used in the enforcement of requirements for distribution of milk, milk products or goat milk under the Grade A label, must be certified as meeting the requirements for laboratory approval that are established by rule of the commissioner, and must receive a permit from the commissioner. The permit shall remain valid without renewal unless suspended or revoked by the commissioner for failure to comply with the requirements. Satisfactory analytical procedures and results for split

samples, the nature, number and frequency of which shall be in accordance with rules established by the commissioner, shall be required of a certified laboratory for retention of its certification and permit.

An application for initial certification or biennial recertification, or for recertification following suspension or revocation of a permit shall be accompanied by an annual fee based on the number of analysts approved and the number of specific tests for which they are approved. The fee is not less than \$150 or more than \$200 for each analyst approved and not less than \$35 or more than \$50 for each test approved. The commissioner may annually adjust assessments within the limits established by this subdivision to meet the cost recovery of the services required by this subdivision.

[For text of subds 8b to 8d, see M.S.2000]

Subd. 8e. **Farm bulk milk pick-up tankers.** Farm bulk milk pick-up tankers, milk transports, and tankers used to transport milk products must be inspected and obtain a permit issued by the commissioner annually by July 1. The owner or operator must pay a \$25 permit fee per tanker to the commissioner. The commissioner may appoint such persons as the commissioner deems qualified to make inspections.

[For text of subds 9 to 12, see M.S.2000]

History: 1Sp2001 c 2 s 59-61.

32.415 MILK FOR MANUFACTURING; QUALITY STANDARDS.

(a) The commissioner may adopt rules to provide uniform quality standards, and producers of milk used for manufacturing purposes shall conform to the standards contained in Subparts B, C, D, E, and F of the United States Department of Agriculture Consumer and Marketing Service Recommended Requirements for Milk for Manufacturing Purposes and its Production and Processing, as revised through November 12, 1996, except that the commissioner shall develop methods by which producers can comply with the standards without violation of religious beliefs.

(b) The commissioner shall perform or contract for the performance of the inspections necessary to implement this section or shall certify dairy industry personnel to perform the inspections.

(c) The commissioner and other employees of the department shall make every reasonable effort to assist producers in achieving the milk quality standards at minimum cost and to use the experience and expertise of the University of Minnesota and the agricultural extension service to assist producers in achieving the milk quality standards in the most cost-effective manner.

(d) The commissioner shall consult with producers, processors, and others involved in the dairy industry in order to prepare for the implementation of this section including development of informational and educational materials, meetings, and other methods of informing producers about the implementation of standards under this section.

History: 1Sp2001 c 2 s 62

32.471 BUTTERFAT CONTENT OF BUTTER.

Subdivision 1. [Repealed, 1Sp2001 c 2 s 162]

32.474 [Repealed, 1Sp2001 c 2 s 162]

32.475 BUTTER, GRADING AND LABELING.

[For text of subd 1, see M.S.2000]

Subd. 2. **Minnesota grades.** It is unlawful to sell, offer or expose for sale, or have in possession with intent to sell any butter at retail unless it has been graded and labeled with such grades as follows:

(a) Grade, Minnesota, AA -- U.S. Grade AA

(b) Grade, Minnesota, A -- U.S. Grade A.

(c) Grade, Minnesota, B -- U.S. Grade B.

(d) Grade, Minnesota, undergrade -- all butter below Minnesota B.

For the purposes of this section "sale at retail" shall include all sales to a restaurant or eating establishment that serves butter to its patrons or that uses butter in the preparation of any food which is served to its patrons.

[For text of subds 3 to 7, see M.S.2000]

History: 1Sp2001 c 2 s 63

32.481 CHEESE.

[For text of subd 1, see M.S.2000]

Subd. 2. [Repealed, 1Sp2001 c 2 s 162]

32.529 [Repealed, 1Sp2001 c 2 s 162]

32.53 [Repealed, 1Sp2001 c 2 s 162]

32.531 DEFINITIONS.

Subdivision 1. [Repealed, 1Sp2001 c 2 s 162]

Subd. 5. [Repealed, 1Sp2001 c 2 s 162]

Subd. 6. [Repealed, 1Sp2001 c 2 s 162]

Subd. 7. [Repealed, 1Sp2001 c 2 s 162]

32.5311 [Repealed, 1Sp2001 c 2 s 162]

32.5312 [Repealed, 1Sp2001 c 2 s 162]

32.532 [Repealed, 1Sp2001 c 2 s 162]

32.533 [Repealed, 1Sp2001 c 2 s 162]

32.534 [Repealed, 1Sp2001 c 2 s 162]

32.55 DEFINITIONS; FROZEN DAIRY FOODS.

[For text of subds 1 to 14, see M.S.2000]

Subd. 15. [Repealed, 1Sp2001 c 2 s 162]

Subd. 16. [Repealed, 1Sp2001 c 2 s 162]

Subd. 17. [Repealed, 1Sp2001 c 2 s 162]

32.70 DEFINITIONS.

[For text of subds 1 to 6, see M.S.2000]

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

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

[For text of subds 9 to 11, see M.S.2000]

History: 1Sp2001 c 2 s 64,65