MANUFACTURING MILK LAW OF 2001

Act 267 of 2001

AN ACT to define and regulate milk, cream, frozen desserts, and related foods and by-products of those foods under certain circumstances; to prescribe certain powers and duties of certain state agencies and officers; to prohibit the sale of unclean and unsanitary milk and manufactured dairy products and their use in the manufacture of food products; to prohibit unclean and unsanitary conditions of milk and milk processing establishments; to establish production and handling standards of sanitary milk and dairy products for manufacturing and manufactured dairy products; to regulate the sale and transportation of milk and dairy products for manufacturing purposes; to issue licenses and permits to certain persons and provide for the revocation or suspension of licenses and permits under certain circumstances; to impose certain fees; to require certain security devices under certain circumstances; to establish inspection requirements; to promulgate rules; to set certain standards for milk and dairy products, processing, and pasteurization; to provide for penalties and remedies; and to repeal acts and parts of acts.

History: 2001, Act 267, Eff. Feb. 8, 2002

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The People of the State of Michigan enact:

288.561 Short title.

Sec. 1.

This act shall be known and may be cited as the "manufacturing milk law of 2001".

History: 2001, Act 267, Eff. Feb. 8, 2002

Article I

288.570 Definitions; A.

Sec. 10.

As used in this act:

(a) "Adulterated" means food or milk products to which any of the following apply:

(i) It bears or contains any poisonous or deleterious substance that may render it injurious to health except that, if the substance is not an added substance, the food or milk product is not considered adulterated if the quantity of that substance in the food or milk product does not ordinarily render it injurious to health.

(ii) It bears or contains any added poisonous or added deleterious substance, other than a substance that is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive considered unsafe within the meaning of subparagraph (v).

(iii) It is a raw agricultural commodity that bears or contains a pesticide chemical considered unsafe within the meaning of subparagraph (v).

(iv) It bears or contains any food additive considered unsafe within the meaning of subparagraph (v) 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 subparagraph (v) and the raw agricultural commodity has been subjected to processing the residue of that pesticide chemical remaining in or on that processed food is, notwithstanding the provisions of subparagraph (v) and this subdivision, not be considered unsafe if that residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and if the concentration of that residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity.

(v) Any added poisonous or deleterious substance, any food additive, and pesticide chemical in or on a raw agricultural commodity, or any color additive is considered unsafe for the purpose of application of this definition,

unless there is in effect a federal regulation or exemption from regulation under the federal act, meat inspection act, poultry product inspection act, or other federal acts, or a rule adopted under this act limiting the quantity of the substance, and the use or intended use of the substance, and the use or intended use of the substance conforms to the terms prescribed by the rule.

(vi) It is or contains a new animal drug or conversion product of a new animal drug that is unsafe within the meaning of section 512 of the federal act, 21 USC 360b.

(vii) It consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance or it is otherwise unfit for food.

(viii) It has been produced, prepared, packed, or held under insanitary conditions in which it may have become contaminated with filth or in which it may have been rendered diseased, unwholesome, or injurious to health.

(ix) It is the product of a diseased animal or an animal that has died other than by slaughter or that has been fed uncooked garbage or uncooked offal from a slaughterhouse.

(x) Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

(xi) A valuable constituent has been in whole or in part omitted or abstracted from the food; a substance has been substituted wholly or in part for the food; damage or inferiority has been concealed in any manner; or a substance has been added to the food or mixed or packed with the food so as to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is.

(xii) It is confectionery and has partially or completely imbedded in it any nonnutritive object except in the case of any nonnutritive object if, as provided by rules, the object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health; it bears or contains any alcohol other than alcohol not in excess of 1/2 of 1% by volume derived solely from the use of flavoring extracts; or it bears or contains any nonnutritive substance except a nonnutritive substance such as harmless coloring, harmless flavoring, harmless resinous glaze not in excess of 4/10 of 1%, harmless natural wax not in excess of 4/10 of 1%, harmless natural gum and pectin or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storage 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 the provisions of this act. For the purpose of avoiding or resolving uncertainty as to the application of this subdivision, the director may issue rules allowing or prohibiting the use of particular nonnutritive substances.

(xiii) It is or bears or contains any color additive that is unsafe within the meaning of subparagraph (v).

(xiv) It has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a rule or exemption under this act or a regulation or exemption under the federal act.

(xv) It is bottled water that contains a substance at a level higher than allowed under this act.

(b) "Advertise" or "advertisement" means a representation disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or is likely to induce, directly or indirectly, the purchase of milk or milk products.

(c) "Approved laboratory" means a laboratory that has been evaluated by the department and is approved to perform tests on manufacturing milk and milk products.

(d) "Approved sample container" means a presterilized, suitable nontoxic single service container of adequate size that complies with the requirements of standard methods.

(e) "Audited financial statement" means a fiscal year end financial statement prepared by a certified public accountant according to generally accepted accounting principles.

(f) "Aseptic processing and packaging" means the filling of a commercially sterilized cooled product into presterilized containers followed by aseptic hermetical sealing with a presterilized closure, in an atmosphere free of microorganisms.

History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

288.571 Definitions; B, C.

Sec. 11.

As used in this act:

(a) "Bulk milk hauler/sampler" means any person who collects official samples and may transport raw milk from a farm and/or raw milk products to or from a dairy plant, receiving station, or transfer station and has in his or her possession a license or permit to sample such products.

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(b) "Bulk milk pickup tanker" means a vehicle including a truck, tank, and those appurtenances necessary for its use used by a bulk milk hauler/sampler to transport bulk raw milk for pasteurization from a dairy farm to a dairy plant, receiving station, or transfer station.

(c) "Butter" means the product usually known as butter that is made exclusively from wholesome milk or cream, or both, with or without common salt, and with or without additional coloring matter and containing not less than 80% by weight of milk fat.

(d) "Cash payments", regarding the producer security requirements of this act, means a payment in cash or by check, money order, wire transfer, or draft for a sale in which the title to farm milk is transferred.

(e) "Cheese" means natural cheeses, processed cheeses, blended cheeses, cheese foods, cheese spreads, nonstandard cheese products, and related foods described in 21 CFR part 133.

(f) "CIP" or "cleaned-in-place" means the procedure by which sanitary pipelines or pieces of dairy equipment are mechanically cleaned in place by circulation.

(g) "Commercial sterility of thermally processed food" means the condition achieved under either of the following circumstances:

(i) By the application of heat which renders the food free of microorganisms capable of reproducing in the food under normal nonrefrigerated conditions of storage and distribution and viable microorganisms, including spores, of public health significance.

(ii) By the control of water activity and the application of heat, which renders the food free of microorganisms capable of reproduction in the food under normal nonrefrigerated conditions of storage and distribution.

(h) "Cream" means any of the following:

(i) Light cream containing not less than 18% but not more than 30% milkfat.

(ii) Whipping cream containing more than 30% but less than 36% milkfat.

(iii) Heavy cream containing more than 36% milkfat.

(iv) Cream obtained from cheese whey only if sold or labeled as whey cream.

History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

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288.572 Definitions; D.

Sec. 12.

As used in this act:

(a) "Dairy animal" means any domesticated lactating mammal, including a cow, goat, sheep, water buffalo, or other hooved mammal, which is managed and milked to obtain milk for human consumption.

(b) "Dairy farm" means any place or premises where 1 or more dairy animals are kept for milking purposes, and from which a part or all of the milk is provided, sold, or offered for sale.

(c) "Dairy plant" or "milk plant" means any place, premises, or establishment where milk or dairy products are collected, handled, processed, stored, pasteurized, aseptically processed, packaged, or prepared for distribution.

(d) "Dairy product", "manufactured dairy product", or "milk product" means products that include, but are not limited to, evaporated milk, condensed skim milk, condensed milk, condensed buttermilk, condensed milk solids, concentrate milk, nonfat dry milk, dry milk, dry cream, dry whey, dry buttermilk, butter, buttermilk, cheese, cheese products, ice cream, sherbet, frozen desserts, dairy confections, or novelties, related dairy products with butter fat or milk solids substitutions, filtered milk components, infant formula manufactured with dairy ingredients, whey, whey cream, and other products for human consumption not regulated under the grade A milk law of 2001 or as determined appropriate by the director.

(e) "Department" means the Michigan department of agriculture.

(f) "Director" means the director of the Michigan department of agriculture or his or her designee.

(g) "Distributor" means a person other than a producer or processor who offers for sale, holds for sale, or sells at wholesale milk or dairy products. A distributor's facilities include warehousing, refrigerated storage, and refrigerated distribution vehicles.

(h) "Dry milk product" means a product resulting from the drying of milk or a dairy product.

(i) "Dryer" means equipment that dries milk or a dairy product.

History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

288.573 Definitions; F to L.

Sec. 13.

As used in this act:

(a) "Farm tank" means the farm bulk milk tank, milk tank truck, or silo used for the storage or cooling of milk, or both, before pickup and transport from the farm.

(b) "Federal act" means the federal food, drug, and cosmetic act, 21 USC 301 to 321, 331 to 360dd, 360hh to 376, and 378 to 399.

(c) "First receiving point" means the dairy plant where the milk is first received for processing and manufacturing. First receiving point for producer security requirements does not include receiving stations and transfer stations.

(d) "Food law of 2000" means the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111.

(e) "Food service establishment" means a fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, drive-in, industrial feeding establishment, private organization serving the public, rental hall, catering kitchen, delicatessen, theater, commissary, food concession, or similar place in which food or drink is prepared for direct consumption through service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public. Food service establishment does not include any of the following:

(i) A motel that serves continental breakfasts only.

(ii) A bed and breakfast that has 10 or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper, 1 or more of which are available for rent to transient tenants.

(iii) A bed and breakfast that has at least 11 but fewer than 15 rooms for rent, if the bed and breakfast serves continental breakfasts only.

(iv) A child care organization regulated under 1973 PA 116, MCL 722.111 to 722.128, unless the establishment is carrying out an operation considered by the director to be a food service establishment.

(f) "Freezer" means mechanical equipment used to lower the temperature of a mix while, at the same time, incorporating air into the mix.

(g) "Frozen desserts" means desserts made from dairy products described in 21 CFR part 135, the mixes, and other similar frozen dairy products that include, but are not limited to, frozen yogurt, soft serve ice cream, and quiescently frozen confections unless otherwise specified by the department.

(h) "Grade A milk law of 2001" means the grade A milk law of 2001, 2001 PA 266, MCL 288.471 to 288.540.

(i) "Imminent or substantial health hazard" means a determination by the director of either or both of the following:

(i) A condition that exists at a dairy farm or dairy plant requiring immediate action to prevent endangering the public health or safety.

(ii) A milk or dairy product may be unwholesome or unsafe.

(j) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article conforming to a requirement imposed under this act that any word, statement, or other information appearing on the label also appears on the outside container or wrapper of the retail package of the article or be easily legible through the outside container or wrapper.

(k) "Labeling" means all labels and other written, printed, or graphic matter upon an article or any of its containers or wrappers or accompanying the article.

History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

288.574 Definitions; M.

Sec. 14.

As used in this act:

(a) "Milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of 1 or more healthy cows, goats, sheep, or other dairy animals.

(b) "Milk buyer" means any milk producer, milk producer marketing organization, dairy plant, receiving station, transfer station, or bulk milk hauler that either takes delivery of raw milk or a raw milk product or manages the sale of the raw milk or raw milk product, or both.

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(c) "Milk tank truck" means both a bulk milk pickup tanker and a milk transport tank.

(d) "Milk tank truck cleaning facility" means any place, premises, or establishment, separate from a dairy plant, receiving station, or transfer station where a milk tank truck is cleaned and sanitized.

(e) "Milk tank truck driver" means any person who transports raw or pasteurized dairy products to or from a dairy plant, receiving station, or transfer station.

(f) "Milk transportation company" means the company that is the person responsible for a milk tank truck.

(g) "Milk transport tank" means a vehicle, including the truck and tank, used by a bulk milk hauler/sampler to transport bulk shipments of milk from a dairy plant, receiving station, or transfer station to another dairy plant, receiving station, or transfer station.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.575 Definitions; M.

Sec. 15.

As used in this act:

(a) "Misbranded" means food to which any of the following apply:

(i) Its labeling is false or misleading in any particular.

(ii) It is offered for sale under the name of another food.

(iii) It is an imitation of another food unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food imitated.

(iv) Its container is so made, formed, or filled as to be misleading.

(v) It is in package form, unless it bears a label containing both the name and place of business of the manufacturer, packer, or distributor and an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count subject to reasonable variations as are permitted and exemptions as to small packages as are established by rules prescribed by the department.

(vi) Any word, statement, or other labeling required by this act is not prominently placed on the label or labeling conspicuously 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.

(vii) 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 this act or under the federal act, unless it conforms to such definition and standard and its label bears the name of the food specified in the definition and standard, and, insofar as may be required by the rules, the common names of optional ingredients, other than spices, flavoring, and coloring, present in such food.

(viii) It purports to be or is represented to be either of the following:

(A) A food for which a standard of quality has been prescribed by this act or rules 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.

(B) A food for which a standard or standards of fill of container have been prescribed by this act or rules and it falls below the standard of fill of container applicable unless its label bears, in such manner and form as the rules specify, a statement that it falls below the standard.

(ix) It does not bear labeling clearly giving the common or usual name of the food, if one exists, and if fabricated from 2 or more ingredients, the common or usual name of each ingredient except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each and under other circumstances as established by rules regarding exemptions based upon practicality, potential deception, or unfair competition.

(x) It bears or contains any artificial flavoring, artificial coloring, or chemical preservative unless the labeling states that fact and under other circumstances as established by rules regarding exemptions based upon practicality.

(xi) If a food intended for human consumption and offered for sale, its label and labeling do not bear the nutrition information required under section 403(q) of the federal act, 21 USC 343.

(xii) 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.

(xiii) It is a color additive whose packaging and labeling are not in conformity with packaging and labeling requirements applicable to such color additive prescribed under the provisions of the federal act.

(b) "Mix" means ice cream mix, yogurt mix, sherbet mix, and any other unfrozen pasteurized liquid mixture which is to be manufactured into a frozen dessert including a liquid mixture intended for processing into quiescently

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frozen confections.

History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

288.576 Definitions; O to R.

Sec. 16.

As used in this act:

(a) "Offering for sale" means selling, offering to sell, holding for sale, preparing for sale, trading, bartering, offering as a gift as an inducement for sale of, and advertising for sale in any media.

(b) "Other security" means a mutually acceptable producer security agreement, acceptable to the director, approved and signed by the milk buyer and all milk sellers selling milk to that milk buyer.

(c) "Person" means an individual, partnership, company, limited liability company, cooperative, association, firm, trustee, educational institution, state or local government unit, or corporation.

(d) "Processor" means the owner or operator of a dairy plant.

(e) "Producer" means a person who owns or operates a dairy farm and sells or distributes milk produced on that farm including a person who markets milk on behalf of a producer pursuant to a marketing agreement.

(f) "Receiving station" means any place, premise, or establishment where raw milk is received, collected, handled, stored, or cooled and is prepared for further transporting.

(g) "Registered name" means either a name that is registered as "doing business as" at the county clerk's office in the county in which the producer or processor resides or that is registered with the state of Michigan as a legal entity registered to do business within the state under an assumed name. Registered name includes, but is not limited to, incorporations, corporations, limited liability companies, limited liability partnerships, and similar entities.

(h) "Rerun" means a frozen dessert that is not placed in its final container immediately after passing through the freezing process and is intended to be melted and reprocessed or refrozen.

(i) "Retail" means selling or offering for sale dairy products directly to a consumer.

(j) "Retail food establishment" means an operation that sells or offers to sell food directly to a consumer. Retail food establishment includes both a retail grocery and a food service establishment but does not include a food processing plant.

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History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

288.577 Definitions; S to W.

Sec. 17.

As used in this act:

(a) "Sample transfer instrument" means any of the following:

(i) Individually wrapped, sterile, single-service sampling tubes.

(ii) Stainless steel metal dippers, with long handles having capacities of 10 ml. or greater.

(iii) Sampling devices approved by the director.

(b) "Sanitary standards" means the dairy equipment construction standards or accepted dairy system operating practices formulated by 1 of the following:

(i) 3-A sanitary standards committees representing the international association for food protection, the United States public health service, the United States department of agriculture, and the dairy industry committee.

(ii) If sanitary standards are not available for a particular piece of equipment, general sanitary construction standards for dairy equipment formulated by the United States department of agriculture or the food and drug administration.

(iii) The equipment or practice approved by the director on a case-by-case basis.

(c) "Sanitizing" means the application of any effective method or sanitizing agent in compliance with the federal act to a clean surface for the destruction of pathogens and other organisms as far as is practicable.

(d) "Scheduled process" means the aseptic process selected by the processor as adequate under the conditions of manufacture for a given product to be free of viable microorganisms having a public health significance as well as microorganisms of nonhealth significance capable of reproducing in the food under normal nonrefrigerated conditions. Scheduled process includes an aseptic process that may be in excess of that necessary to ensure destruction of microorganisms of public health significance but at least equivalent to the process established by a competent processing authority to achieve commercial sterility under 21 CFR part 113.

(e) "Standard methods" means the sixteenth edition of "Standard Methods for the Examination of Dairy Products", published by the American public health association, dated 1992, incorporated by reference.

(f) "Sterilization or aseptic processing" means the complete destruction of living organisms by 1 of the following methods:

(i) Heating a container and its contents to a temperature between 212°F (100°C) to 280°F (138°C) for a period of time established by the scheduled process or by the department.

(ii) Creating a continuous product flow above a temperature of 280°F (138°C) for a period of time established by the scheduled process or by the department.

(iii) Employing a process described in subdivision (i) or (ii), and following packaging of the sterilized product, applying a heat treatment approved by the department.

(g) "Sterilized or aseptic milk and dairy products" means products hermetically sealed in a container and thermally processed or otherwise processed so as to render the product free of microorganisms capable of reproducing in the product under normal nonrefrigeration conditions of storage and distribution and free of viable microorganisms including spores of public health significance.

(h) "Transfer station" means any place, premises, or establishment where milk or dairy products are transferred directly from 1 milk tank truck to another.

(i) "Verified financial statement" means a financial statement that contains a notarized statement, signed and sworn to by an authorized representative of the dairy plant, attesting that the financial statement is correct.

(j) "Wholesale" means selling or offering to sell dairy products to retailers, jobbers, or distributors rather than directly to a consumer.

History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

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Article 3

288.590 Other standards or requirements; inspection reports; out-of-state milk products.

Sec. 30.

(1) A political subdivision of the state shall not impose any different standards or requirements for manufacturing milk and manufacturing milk products than those provided for in this act and shall not prohibit the sale of dairy products if they have been produced and processed as manufacturing milk under supervision of the department.

(2) The director shall furnish copies of its inspection reports on any dairy farm producing manufacturing milk to a purchaser of manufacturing milk from that farm upon written request.

(3) A sanitary standard or similar requirement issued under this act does not prohibit the sale of manufacturing milk or manufacturing milk products that are produced or processed under laws or rules of a governmental unit outside the state that the director determines are substantially equivalent to the requirements of the rules promulgated under this act and are enforced with equal effectiveness if the governmental unit accepts Michigan manufacturing milk and dairy products inspected by the department.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.591 Repeal of acts; rescission of rules.

Sec. 31.

(1) The following acts and parts of acts are repealed effective 30 days after enactment of this act:

(a) 1899 PA 167, MCL 289.61.

(b) 1903 PA 243, MCL 288.221 to 288.223.
(c) 1911 PA 257, MCL 288.371 to 288.372.
(d) 1913 PA 63, MCL 288.252 to 288.257.
(e) The manufacturing milk act, 1913 PA 222, MCL 288.101 to 288.117.
(f) 1915 PA 93, MCL 288.161 to 288.162.
(g) 1923 PA 30, MCL 288.281 to 288.284.
(h) The milk fat test law, 1935 PA 212, MCL 288.51 to 288.60.
(i) 1939 PA 155, MCL 288.201 to 288.206.
(j) 1945 PA 293, MCL 288.151 to 288.153.
(k) 1955 PA 211, MCL 288.211 to 288.217.
(l) 1967 PA 45, MCL 288.141 to 288.149.
(m) The frozen desserts act of 1968, 1968 PA 298, MCL 288.321 to 288.334.

(2) Except as rescinded, rules promulgated under public acts repealed by this act retain authorization under this act. The following rules are rescinded effective 30 days after enactment of this act:
(a) R 285.400.1 of the Michigan administrative code.
(b) R 285.402.1 of the Michigan administrative code.
(c) R 285.404.1 of the Michigan administrative code.
(d) R 285.405.1 to R 285.405.29 of the Michigan administrative code.
(e) R 285.407.1 to R 285.407.6 of the Michigan administrative code.
(f) R 285.409.1 of the Michigan administrative code.

History: 2001, Act 267, Eff. Feb. 8, 2002

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288.592 Effective date.

Sec. 32.

This act takes effect 30 days after the date of enactment.

History: 2001, Act 267, Eff. Feb. 8, 2002

Article 5

288.610 Administration of act; rules; incorporation by reference.

Sec. 50.

(1) The department shall administer this act and may promulgate rules for its implementation and enforcement, or adopt revisions of standards adopted by reference in this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) The following standards are incorporated by reference:

(a) The sanitary standards of 7 CFR part 58 and the sanitary standards of the 3-A sanitary standards committees, published by the International Association for Food Protection, as referenced in 7 CFR part 58.

(b) Standards for dairy equipment construction formulated by the United States Department of Agriculture, dated 2001, entitled USDA Guidelines for the Sanitary Design and Fabrication of Dairy Processing Equipment, and the United States Food and Drug Administration, dated 2000, entitled Milk and Milk Product Equipment, A Guide for Evaluating Construction.

(c) The standards for sanitizing solutions complying with the federal food, drug, and cosmetic act, 21 USC 301 to 399h, and listed in 21 CFR 178.1010.

(d) The scheduled process standards for achieving commercial sterility and standards for sterilized or aseptic milk and dairy products processing contained in 21 CFR part 113.

(e) The standard methods for the examination of dairy products referenced in 7 CFR part 58 and published by the American Public Health Association, sixteenth edition, dated 1992.

(f) Cheeses and related cheese products, 21 CFR part 133.

(g) Labeling, 21 CFR part 101, 9 CFR part 317, and 9 CFR part 381, subpart N.

(h) Current Good Manufacturing Practices, Hazard Analysis, and Risk-Based Preventive Controls, 21 CFR part 117.

History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2018, Act 622, Eff. Mar. 28, 2019

288.611 Investigations; inspections.

Sec. 51.

The director shall foster and encourage the dairy industry of the state and, for that purpose, shall investigate the general conditions of the dairy farms, dairy plants, single service manufacturers, receiving stations, transfer stations, bulk milk haulers/samplers, can milk trucks, milk tank trucks, milk tank truck cleaning facilities, and distributors with full power to enter upon any premises for such investigation, with the object of improving the quality and creating and maintaining uniformity of the dairy products of the state. If determined necessary by the director, he or she may cause instruction to be given in any dairy farm, dairy plant, single service manufacturer, receiving station, transfer station, and distributor or in any locality in this state, in order to secure the proper feeding and care of dairy animals, the proper maintenance and sanitation of milk handling equipment, the proper maintenance of milk production facilities, the proper maintenance of milk processing facilities, the proper maintenance of single service facilities, the proper handling and storage of milk, dairy products, or single service containers, or the practical operation of any plant producing dairy products or single service containers for dairy products. In order to secure a uniform and standard quality of dairy products in the state, the director shall furnish a sufficient number of competent and qualified inspectors for that purpose as provided for in this act.

History: 2001, Act 267, Eff. Feb. 8, 2002

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Article 7

288.630 Prohibited acts; standards; compliance.

Sec. 70.

(1) A person shall not directly, through an agent, or on behalf of another person sell or offer for sale, furnish, or possess or control with intent to sell or offer for sale, or furnish an unsanitary, adulterated, or misbranded milk or dairy product to a person or a processor.

(2) Dairy products made or sold in Michigan shall comply with the requirements of this act and the standards as follows:

Chemical, Physical, Bacteriological, and Temperature Standards		
MANUFACTURING GRADE RAW MILK FOR PASTEURIZATION (NOT FOR FROZEN DESSERTS) INCLUDING ULTRAFILTRATION OR REVERSE OSMOSIS RAW MILK CONCENTRATE	Temperature	Bulk milk cooled to 45°F (7°C) or less within 2 hours after milking and maintained thereat. Provided that the blend temperature after the first and subsequent milkings does not exceed 50°F (10°C). Can milk not to exceed 60°F (16°C) if used for cheese making; if delivered to the plant within 2 hours of milking, no temperature limit.
	Bacterial limits	Not to exceed 500,000 per ml (milk for cheese not to exceed 750,000 per ml). Not to exceed 1,000,000 per ml as commingled milk prior to pasteurization.
	Somatic cell count	Not to exceed 1,000,000 per ml.

	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with raw milk.
	Sediment	Not to exceed a USDA no. 3 standard following procedures from standard methods for the examination of milk and milk products.
	Freezing point	-0.530°H maximum.
RAW MILK FOR FROZEN DESSERTS	Temperature	Bulk milk cooled to 45°F (7°C) or less within 2 hours after milking and maintained thereat. Provided, that the blend temperature after the first and subsequent milkings does not exceed 50°F (10°C).
	Bacterial limits	Not to exceed 100,000 per ml for individual supplies, not to exceed 300,000 per ml commingled.
	Somatic cell counts	Not to exceed 750,000 per ml.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with raw milk.
	Sediment	Not to exceed a USDA no. 3 standard following procedures from standard methods for the examination of milk and milk products.
	Freezing point	-0.530°H maximum.
PASTEURIZED CONDENSED MILK AND CONDENSED SKIM MILK	Temperature	Cooled to 45°F (7°C) [50°F (10°C) if 45% or more solids] or less, or heated to 145° (63°C) or greater and maintained thereat unless the product is being dried within 4 hours after condensing.
	Bacterial limits	Not to exceed 30,000 per gram.
	Coliform count	Not to exceed 10 per gram. Provided, that in the case of bulk milk transport tank shipments shall not exceed 100 per ml.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with condensed milk and condensed skim milk.
DRY WHOLE MILK, EXTRA GRADE	No more than:	
	Butterfat	Not less than 26% or more than 40%.
	Moisture	4.50%.
	Solubility index	1.0 ml spray process; 15.0 roller process.
	Bacterial limit	Not to exceed 50,000 per gram.
	Coliform count	Not to exceed 10 per gram.
	Scorched particles disc B	15.0/ gram spray process; 22.5 roller process.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with dry whole milk.
	DMCC count	Less than 100,000,000 per gram.
DRY WHOLE MILK, STANDARD GRADE	No more than:	

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	Butterfat	Not less than 26% or more than 40%.
	Moisture	5.00%.
	Titratable acidity	0.15%.
	Solubility index	1.5 ml spray process; 15.0 ml roller process.
	Bacterial limit	Not to exceed 100,000 per gram.
	Coliform count	Not to exceed 10 per gram.
	Scorched particles disc B	22.5 per gram spray process; 32.5 per gram roller process.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with dry, whole milk.
	DMCC count	Less than 100,000,000 per gram.
NONFAT DRY MILK, EXTRA GRADE	No more than:	
	Butterfat	1.25%
	Moisture	4.00%
	Titratable acidity	0.15%
	Solubility index	1.2 ml (2.0 ml high-heat, max) spray process; 15.0 ml roller process.
	Bacterial limit	Not to exceed 10,000 per gram spray or 50,000 per gram roller process.
	Coliform count	Not to exceed 10 per gram.
	Scorched particles disc B	15.0/ gram spray; 22.5/ gram roller process.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with nonfat dry milk.
	DMCC count	Less than 100,000,000 per gram.
NONFAT DRY MILK, STANDARD GRADE	No more than:	
	Butterfat	1.50%
	Moisture	5.00%
	Titratable acidity	0.17%
	Solubility index	2.5 ml spray process; 15.0 ml roller process.
	Bacterial estimate	75,000/ gram spray; 100,000/ gram roller process.
	Coliform count	10 per gram.
	Scorched particles disc B	22.5/ gram spray; 32.5/ gram roller process.

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	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with nonfat dry milk.
	DMCC count	Less than 100,000,000 per gram.
INSTANT NONFAT DRY MILK, EXTRA GRADE	No more than:	
	Butterfat	1.25%.
	Moisture	4.50%.
	Titratable acidity	0.15%.
	Solubility index	1.0 ml.
	Bacterial limit	Not to exceed 10,000 per gram.
	Coliform count	Not to exceed 10 per gram.
	Scorched particles disc B	15.0/ gram.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with nonfat dry milk.
	Dispersibility	85.0%
	DMCC count	Less than 40,000,000 per gram.
WHEY FOR CONDENSING	Temperature	Maintained at a temperature of 45°F (7°C) or less, or 135°F (57°C) or greater, except for acid-type whey with a titratable acidity 0.40% or above, or a pH of 4.6 or below.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with whey.
PASTEURIZED CONDENSED WHEY AND WHEY PRODUCTS	Temperature	Cooled to 50°F (10°C) or less during crystallization, within 72 hours of condensing.
	Coliform count	Not to exceed 10 per gram.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with condensed whey.
DRY WHEY, EXTRA GRADE	Bacterial limit	Not to exceed 30,000 per gram.
	Coliform count	Not to exceed 10 per gram.
	Milkfat content	Not to exceed 1.5%.
	Moisture content	Not to exceed 5.0%.
	Scorched particle content	Not to exceed 15.0%.
DRY WHEY, DRY WHEY PRODUCTS	Bacterial limit	Not to exceed 50,000 per gram.
	Coliform count	Not to exceed 10 per gram.
	Butterfat	Not more than 1.50%.

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	Moisture	Not more than 5%.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with dry whey and dry whey products.
DRY BUTTERMILK AND DRY BUTTERMILK PRODUCTS, EXTRA GRADE	Butterfat	4.5% min.
	Moisture	4.0% max.
	Titratable acidity	0.10 - 0.18%.
	Solubility index	1.25 ml spray process; 15.0 roller process.
	Bacterial limit	Not to exceed 20,000 per gram.
	Coliform count	Not to exceed 10 per gram.
	Scorched particles disc B	15.0 mg spray process; 22.5 mg roller process.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with dry buttermilk and dry buttermilk products.
DRY BUTTERMILK AND DRY BUTTERMILK PRODUCTS, STANDARD GRADE	Butterfat	4.5% min.
	Moisture	5.0% max.
	Titratable acidity	0.10 – 0.20%.
	Solubility Index	2.0 ml spray process; 15.0 roller process.
	Bacterial limit	Not to exceed 75,000 per gram.
	Coliform count	Not to exceed 10 per gram.
	Scorched particles disc B	22.5 mg spray process; 32.5 mg roller process.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with dry buttermilk and dry buttermilk products.
BUTTER, WHIPPED BUTTER	Percent butterfat	Not less than 80%.
	Temperature	Maintained at a temperature of 45°F (7°C) or less, when in storage.
	Proteolytic count	Not more than 50 per gram.
	Yeast and mold	Not more than 10 per gram.
	Coliform count	Not more than 10 per gram.
	Keeping quality	Satisfactory after 7 days at 70°F (21°C).
PASTEURIZED MILK, CREAM, FLUID DAIRY PRODUCTS FOR FROZEN DESSERTS	Bacterial limit	Not to exceed 20,000 per ml.

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	Coliform count	Not to exceed 10 per gram. Provided, that in the case of bulk milk transport tank shipments shall not exceed 100 per ml.
	Storage temp	No higher than 45°F (7°C).
FROZEN DESSERT MIX	Bacterial limit	30,000 per ml.
	Coliform count	Not to exceed 10 per gram. Provided, that in the case of bulk milk transport tank shipments shall not exceed 100 per ml.
	Storage temp	No higher than 45°F (7°C). (Sterile or aseptic mix has no storage temperature requirement.)
FROZEN DESSERTS	Bacterial limit	30,000 per ml.
	Coliform count	Not to exceed 10 per ml (20 per gram for chocolate, fruit, nuts or other bulky flavored frozen desserts).
	Storage temp	No higher than 32°F (0°C).
	Butterfat	Per standards listed in 21 C.F.R. 135.
STERILIZED OR ASEPTIC PRODUCTS	Bacterial limit	Refer to 21 CFR 113.3(e)(1).
	Temperature	None.
	Yeast and mold	No viable yeast or mold spores.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with aseptically processed milk and milk products.
PRIVATE WATER SUPPLIES FOR DAIRY FARMS AND DAIRY PLANTS; RECIRCULATED COOLING WATER (SWEET WATER); GLYCOL FOR COOLING CONDENSATE RECOVERY WATER (COW WATER)	Coliform count	Less than 1.1 per 100 ml as MPN or equivalent method less than 1 per 100 ml.
	Total plate count	Not to exceed 500 per ml.
	Chemical oxygen demand	Not to exceed 12 mg per L.
	Turbidity	Not to exceed 5 units.

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History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008
Compiler's Notes: In the section of the table entitled "PASTEURIZED CONDENSED MILK AND CONDENSED SKIM MILK", the first instance of "145°" evidently should read "145°F".

288.631 Testing frequency for dairy products; testing dairy farm water supplies.

Sec. 71.

(1) All dairy products shall be tested at a minimum frequency of 4 out of every 6 months, or as determined by the director.

(2) Except when the water supply is required to be tested annually as provided in section 130(9)(h), well water samples for dairy farms shall be tested a minimum of once every 3 years and found to be of safe and satisfactory quality.

(3) Water supplies for dairy plants shall be tested a minimum of once every 6 months.

(4) Recirculated water or recirculated cooling medium shall be tested a minimum of once every 6 months.

(5) Condensate recovery water shall be used only in applications that conform to requirements and procedures accepted by the United States food and drug administration or the director.

History: 2001, Act 267, Eff. Feb. 8, 2002

Article 9

288.650 Inspecting, sampling, and investigating conditions; authority of director and department.

Sec. 90.

(1) The director, after proper identification, is authorized and shall have the power to enter all dairy farms, dairy plants, single service manufacturing facilities, milk tank truck cleaning facilities, receiving stations, transfer stations, dairy product distribution facilities, vehicles used to transport milk and milk products or single service manufacturers under its jurisdiction, for the purpose of inspecting, sampling, and investigating conditions relating to the enforcement of this act.

(2) The department shall, at a minimum, inspect all dairy farms every 12 months and dairy plants, receiving stations, and transfer stations every 6 months, or at time intervals as specified by the director.

History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

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288.651 Seizure of milk, dairy products, or equipment; findings; condemnation or destruction; removal of tag or transfer to another container prohibited.

Sec. 91.

(1) The director may seize or hold for investigation any milk, dairy product, or equipment which the director may have reason to believe constitutes or may be contributing to an imminent or substantial health hazard or is in violation of this act. Seized milk, dairy products, or equipment shall not be disposed of until a release is obtained from the director. The director shall complete his or her action on any such seized item within a reasonable time, and the farm, plant, or station shall be promptly notified of the director's decision. The director may collect and retain evidence to verify the determination of an imminent health hazard.

(2) Whenever the director finds in any dairy farm, dairy plant, receiving station, transfer station, or vehicle any milk or dairy product which contains any unwholesome substance, or that may be poisonous or deleterious to health or otherwise unsafe, such milk or dairy product shall be declared an imminent or substantial health hazard. The director shall condemn or destroy the milk or dairy product or in any other manner render the same unsalable as human food. A person shall not remove a condemnation or seizure tag attached to any container of condemned milk or cream, or transfer condemned milk to another container and sell or offer for sale the condemned milk for human consumption.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.652 Access to markets for milk and dairy products; certificate of free sale; application; fees; "certificate of free sale" defined.

Sec. 92.

(1) To facilitate continued access to markets for milk and dairy products, the department may do 1 or both of the following:

(a) At the request of a processor or based upon records voluntarily supplied by a processor, inspect, audit, or certify a dairy plant where milk or dairy products are processed, pasteurized, or aseptically processed in this state.

(b) Issue certificates of free sale under subsection (3).

(2) A processor shall submit an application for a certificate of free sale on a form and in a manner prescribed by the department.

(3) The department shall grant or deny an application for a certificate of free sale within 10 business days after the department receives a completed application under subsection (2) and the application fee under subsection (4). If the department determines that the application meets the requirements of this act and the rules promulgated under this act, the department shall issue a certificate of free sale. If the department determines that the application does not meet the requirements of this act or the rules promulgated under this act, the department shall deny the application and send a written notice to the processor stating the reasons for the denial.

(4) If a certificate of free sale is issued under subsection (3), the processor shall pay the department the following fees, as applicable:

(a) An application fee, $60.00.

(b) A duplicate copy of a certificate of free sale, $10.00.

(5) A fee collected under subsection (4) must be deposited in the dairy and food safety fund created in section 4117 of the food law of 2000, MCL 289.4117.

(6) A certificate of free sale issued under this section is valid for 1 year.

(7) As used in this section, "certificate of free sale" means a document that is issued by the department that verifies that the milk or dairy product listed is processed, pasteurized, or aseptically processed in this state and is legally sold or distributed in this state and on the open market with the approval of the department.

History: Add. 2022, Act 128, Imd. Eff. June 29, 2022

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Article 11

288.670 License or permit.

Sec. 110.

(1) A person shall not do any of the following without being licensed under this act or the grade A milk law of 2001:

(a) Produce milk that is offered for sale.

(b) Collect milk samples for regulatory purposes.

(c) Operate a milk transportation company that owns or operates a can milk truck.

(d) Process, label, or sell milk or manufactured dairy products, except that a person operating a retail food establishment is exempt from licensure under this act if he or she complies with section 111 and is licensed under the food law of 2000. This subdivision does not prevent the sale at wholesale or retail at a retail food establishment licensed under the food law of 2000 of milk or milk products that are packaged in final consumer packages at a facility licensed under this act.

(e) Wash milk tank trucks.

(2) A person licensed under the grade A milk law of 2001 and engaged in activities regulated under that act and activities regulated under this act is exempt from licensure under this act.

(3) A person licensed under the grade A milk law of 2001 or this act shall comply with the requirements of this act, where applicable, and is subject to the penalties set forth in this act, where applicable.

(4) The director may issue a temporary license or permit for activities regulated under this act.

(5) State agencies operating dairy facilities under a memorandum of understanding with the department are not required to be licensed or permitted, or to provide producer security under this act, but are otherwise required to be in compliance with this act.

(6) An applicant for an initial manufacturing grade dairy farm permit shall apply to the department on a form provided by the department, pay the annual permit fee imposed under this section, and complete education on drug residue avoidance control measures acceptable to the director before receiving the permit.

(7) An applicant for an initial license as a dairy plant shall apply to the department on a form supplied by the department and provide a statement containing the following:

(a) The dairy plant's correct legal name and any name by which the dairy plant is doing business. If the dairy plant is a person not an individual, the name of each officer and director, and partner, member, or owner owning in

excess of 35% of equity or stock.

(b) The location of the dairy plant to which the statement pertains and the name of the responsible person who may be contacted at that location.

(c) The anticipated value of greatest milk receipts the dairy plant expects to receive during a consecutive 30-day period within the licensing period.

(d) A list of producers, including names, mailing addresses, and department producer permit number, with whom the dairy plant intends to do business except that not later than 90 days after becoming licensed for the first time, the dairy plant shall send an updated list to the department.

(e) The name of the financial institution through which milk checks are to be issued to producers.

(f) The annual volume of raw milk each milk plant anticipates receiving. The department may conduct an audit to verify the accuracy of the annual volume of raw milk receipts reported and may reassess the license fee accordingly. In the alternative, the department may utilize an audit conducted by the United States department of agriculture or any other audit acceptable to the director.

(8) A dairy plant shall annually renew a license issued under this act by applying to the department at least 30 days prior to the expiration of the existing license. The anniversary date of a license for a dairy plant that is providing a financial statement as a security device shall be 130 days after the close of the licensee's fiscal year. The dairy plant shall apply for renewal of a license on a form supplied by the department and provide a statement containing the following:

(a) The dairy plant's correct legal name and any name by which the dairy plant is doing business. If the dairy plant is a person not an individual, the name of each officer and director, and partner, member, or owner owning in excess of 35% of equity or stock.

(b) The location of the dairy plant to which the statement pertains and the name of the responsible person who may be contacted at that location.

(c) The greater of either the value of greatest milk receipts that the dairy plant received within a consecutive 30-day period during its last license year or the greatest milk receipts that the dairy plant is anticipated to receive during a consecutive 30-day period within the licensing period.

(d) A complete list of producers, including names, mailing addresses, and department producers permit number, with whom the dairy plant is doing business.

(e) The name of the financial institution through which milk checks are issued to producers.

(f) The annual volume of raw milk each milk plant anticipates receiving. The department may conduct an audit to verify the accuracy of the annual volume of raw milk receipts reported and may reassess the license fee accordingly. In the alternative, the department may utilize an audit conducted by the United States department of agriculture or any other audit acceptable to the director.

(9) License renewal for a dairy plant shall take place on June 30 of each year unless otherwise specified in this act. A dairy plant licensed under this act shall pay an annual license or permit fee as follows:

(a) Dairy plant with less than 6,000,000 pounds of anticipated raw milk receipts per year, at a rate of $200.00 per year.

(b) Dairy plant with greater than or equal to 6,000,000 pounds of anticipated raw milk receipts per year, at a rate of $400.00 per year.

(10) Each receiving station or transfer station shall be licensed or permitted either as part of a dairy plant or as a stand-alone facility. Each stand-alone facility will be licensed or permitted at a rate of $200.00 per year. License renewal shall take place on June 30 every year.

(11) Each milk tank truck cleaning facility shall be licensed or permitted under this act either as part of a dairy plant, receiving station or transfer station, or as a stand-alone milk tank truck cleaning facility, or under the grade A law of 2001. Any milk tank truck cleaning facility that washes the milk contact surfaces of milk tank trucks used to haul grade A milk shall be licensed under the grade A law of 2001. Each stand-alone facility will be licensed or permitted at a rate of $200.00 per year. License renewal shall take place on June 30 every year.

(12) Each single service containers and closures manufacturer shall be licensed or permitted under this act either as part of a dairy plant or as a stand-alone manufacturer. Each stand-alone facility will be licensed at a rate of $200.00 per year. License renewal shall take place on June 30 every year.

(13) A person shall not pick up manufacturing grade milk in a farm pickup milk tank from a farm bulk milk tank without a hauler/sampler license issued by the department under the grade A law of 2001. Each milk tank truck or can milk truck shall be licensed or permitted under this act or as required under the grade A milk law of 2001 at a rate of $20.00 per year. License or permit renewal shall take place on June 30 every year.

(14) Each dairy farm producing manufacturing milk to be offered for sale shall be licensed or permitted annually at either of the following rates:

(a) If the dairy farm does not maintain adequate industry personnel, as determined by the director, who are approved to conduct certified industry farm inspections, $30.00.

(b) If the dairy farm maintains adequate industry personnel, as determined by the director, who are approved to conduct certified industry farm inspections, $15.00.

(15) The fee described in subsection (14) shall be paid to the department by June 30 every year.

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(16) A milk buyer shall pay the annual license or permit fee on behalf of the dairy farms and may submit an invoice to the dairy farms for reimbursement of the fee or may deduct the fee from the dairy farms' milk check. A milk buyer shall complete a form provided by the department that indicates the number of producers for which it is responsible and shall include a list of the producer names, addresses, and department permit numbers. The department may conduct audits to verify fee payments.

(17) The department may assess a plan review fee of $100.00 to a potential dairy licensee or permittee, to be paid prior to an on-site consultation. The plan review fee is not refundable and does not apply toward any future license fees.

(18) The department may assess a $150.00 fee on any licensee or permittee requiring the performance of 2 or more consecutive reinspections for compliance of items found in violation of this act.

(19) The director may issue a temporary license or permit if the director determines that issuance of the license or permit will not be detrimental to the protection of the public health, safety, or welfare or will not cause an imminent threat of financial loss to producers.

(20) A political subdivision of the state shall not levy special license fees or taxes on 1 or more of the persons or businesses described in this section except for taxes or fees that are generally levied on persons or businesses other than dairy plants and dairy plant operators.

(21) The director shall examine the books, records, and accounts of a dairy plant if the dairy plant has not responded to requests from the director regarding a security device described in sections 117, 118, and 119. All examinations of books, records, and accounts required under this subsection shall be made within this state.

(22) All applicants for a permit or license must complete an application provided by the department and meet the minimum requirements of this act or the grade A law of 2001, and rules promulgated under this act.

(23) Any fees, assessments, civil or administrative fines, and money from any other source collected by the department under this act shall be deposited into the dairy and food safety fund created in section 4117 of the food law of 2000, MCL 289.4117.

(24) The department may impose a late fee of $10.00 for a renewal application for each business day the application is late. The total late fee shall not exceed $100.00. The department shall not issue or renew a license until any fees and fines have been paid. A hearing is not required regarding the department's refusal to issue or renew a license under this subsection except as allowed under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department may charge a convenience fee and collect from the applicants any additional costs associated with the method of fee payment for the license or permit fees described in this section and section 110a, not to exceed the costs to the department.

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History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008 ;-- Am. 2010, Act 42, Imd. Eff. Mar. 31, 2010

288.670a Receipt of completed application for initial or renewal license; issuance of license within certain time period; "completed application" defined.

Sec. 110a.

(1) The department shall issue an initial or renewal license or permit for regulated activities described in section 110 other than a manufacturing grade dairy farm or a bulk milk hauler/sampler, not later than 90 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by an agency or department of this state. If the application is considered incomplete by the department, the department shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled upon notification by the department of a deficiency until the date the requested information is received by the department. The determination of the completeness of an application is not an approval of the application for the license or permit and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license or permit.

(2) If the department fails to issue or deny a license or permit within the time required by this section, the department shall return the license or permit fee and shall reduce the license or permit fee for the applicant's next renewal application, if any, by 15%. The failure to issue a license or permit within the time required under this section does not allow the department to otherwise delay the processing of the application, and that application, upon completion, must be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of the application based upon the fact that the license fee was refunded or discounted under this subsection.

(3) As used in this section, "completed application" means an application complete on its face and submitted with

any applicable licensing or permit fees and fines as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state. Under appropriate circumstances, completed application includes the completion of construction or renovation of any facility and the passing of a satisfactory inspection.

History: Add. 2004, Act 282, Imd. Eff. July 23, 2004 ;-- Am. 2008, Act 147, Eff. June 27, 2008 ;-- Am. 2018, Act 289, Eff. Sept. 27, 2018

288.670b "Pasteurized milk ordinance" defined; license to conduct certified industry manufacturing farm inspections; license fee; inspections; authorization by director.

Sec. 110b.

(1) As used in this section, "pasteurized milk ordinance" means that term as defined in section 6 of the grade A milk law, MCL 288.476.

(2) Each certified industry manufacturing farm inspector shall pay a 3-year license fee of $150.00 for a license to conduct certified industry manufacturing farm inspections. License renewal shall take place on the expiration date of the 3-year certification.

(3) Certified industry manufacturing farm inspectors shall comply with the requirements for certified industry inspections specified in section 5 of the pasteurized milk ordinance and, in addition, shall conduct both of the following:

(a) A farm inspection of all producers having the first routine count exceeding legal standards for bacteria or somatic cells, or both.

(b) One routine inspection per year of each producer, with a copy of each required inspection forwarded to the local area dairy inspector.

(4) Certified industry manufacturing farm inspectors may perform official inspections, but only with authorization by the director.

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History: Add. 2010, Act 42, Imd. Eff. Mar. 31, 2010

288.671 Milk products manufactured at retail food establishments; exemption.

Sec. 111.

Milk products manufactured at retail food establishments licensed under the food law of 2000 are exempt from this act if both of the following conditions are met:

(a) All ingredients contained in these products comply with the requirements of the food law of 2000.

(b) The milk products manufactured are not sold wholesale or to another business entity.

History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

288.672 Unlicensed dairy plant or previously denied license dairy plant; application for license; investigation of sanitary conditions.

Sec. 112.

Upon receipt of an application for licensure by an unlicensed dairy plant or for a dairy plant previously denied a license under this act, the department shall investigate the sanitary conditions of the dairy plant or place of business. The director shall issue a license under this act upon determining that the sanitary conditions of the applicant's dairy plant or place of business comply with this act and rules and regulations promulgated under this act.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.673 Noncompliance with act or rule; revocation or suspension of license or permit; administrative fine; notice; findings; operation of business or activity; reinstatement.

Sec. 113.

(1) The director may revoke or suspend the license or permit of a licensee or permittee issued under this act or impose an administrative fine under section 125 for failure to comply with the requirements of this act or a rule promulgated under this act. A license or permit may be revoked or suspended according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) The department shall notify in writing each producer with whom a dairy plant does business regarding the pendency of the administrative action not less than 5 days before the date of the formal hearing set under subsection (1).

(3) The director may revoke or suspend a license or permit issued under this act, or impose an administrative fine pursuant to section 125, upon determining that the licensee or permittee has done 1 or more of the following:

(a) Failed to provide supplementary or interim information or information required to be supplied to the department under this act or information requested by the director under this article.

(b) Failed to provide a security device in the amount and manner required by the director under this article.

(c) Knowingly provided false or fraudulent information or made a material misrepresentation on an application.

(d) Knowingly provided false or fraudulent information or made a material misrepresentation in response to a request for information by the department.

(e) Failed to pay a producer in the manner provided for in section 115.

(f) In the case of a dairy plant, failed to provide a security device described in article 11.

(g) Adulterated or caused to be adulterated milk or dairy products.

(h) Knowingly possessed, sold, offered for sale, or purchased any milk or milk product for use in a human food product that has been condemned under this act.

(i) Failed to provide the required number of milk quality sample results as established by the department.

(j) Failed to correct violations of this act noted on inspection reports after being given written instructions to correct the violations in a reasonable length of time.

(k) Failed to pay a final civil or administrative fine issued under this act.

(l) Violated this act or a rule promulgated under this act.

(4) A person whose license or permit has been suspended, revoked, or denied shall immediately discontinue operation of the business or activity for which the license or permit was issued.

(5) A person whose license or permit has been suspended or revoked is not eligible for reinstatement of the license or permit until the director determines that all violations have been corrected.

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History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

288.674 Summary suspension of license or permit; findings; compliance and reinstatement; order.

Sec. 114.

(1) The director may summarily suspend a license or permit issued under this act upon determining that the licensee or permittee had done 1 or more of the following:

(a) Offered for sale or sold milk or dairy products from diseased animals, or otherwise considered abnormal, that has been incorporated with milk or dairy products from normal healthy animals.

(b) Offered for sale or sold milk or dairy products that are not pasteurized according to the requirements set forth in section 137, except as allowed in section 138, or that are suspected of being contaminated with any substance considered by the department to be an imminent or substantial health hazard.

(c) Offered for sale or sold milk or dairy products from production, transportation, packaging, or storage facilities that have such an accumulation of trash, rubbish, dirt, insects, vermin, human or animal wastes, or spoiled milk or dairy products that precludes the reasonable protection of the milk or dairy products from contamination.

(d) Offered for sale or sold milk or dairy products produced in equipment with a significant portion of the milk contact surfaces covered with an accumulation of residues that were left after having gone through a cleaning regimen and that are thick enough that they may be easily scraped to form a body of solids.

(e) Offered for sale or sold milk or dairy products stored in a container of unapproved construction.

(f) Received or picked up milk or dairy products stored in a container of unapproved construction.

(g) Offered for sale or sold milk or dairy products produced from dairy animals with a majority of the milking herd with an excessive accumulation of manure on the flanks, bellies, or udders that precludes the reasonable protection of the milk from contamination during the milking process.

(h) Offered for sale or sold milk or dairy products that was of inadequate volume to properly agitate after the first milking.

(i) Offered for sale or sold milk or dairy products produced with excessive sediment.

(j) Interfered with inspection conducted by the department.

(k) Maintained dead animals on the premises in a manner inconsistent with 1982 PA 239, MCL 287.651 to 287.683.

(l) Maintained a minimum of 3 of the last 5 official bacteria counts illegal.

(m) Maintained a minimum of 3 of the last 5 official somatic cell counts illegal.

(n) Maintained a minimum of 3 of the last 5 official milk or dairy product cooling temperatures illegal.

(o) Failed to provide milk or dairy products free of violative drug residues based on tests approved by the United States food and drug administration.

(p) Offered for sale or sold milk or milk products that present an imminent health hazard due to improper or unknown storage temperature.

(q) Offered for sale or sold milk or milk products that present an imminent health hazard due to improper allergen labeling.

(r) Any other condition that creates an imminent or substantial threat to the public health, safety, or welfare.

(2) If the director summarily suspends a license or permit under subsection (1), the licensee or permittee shall be allowed a minimum of 72 hours to demonstrate compliance and obtain reinstatement of the license or permit before scheduling an administrative hearing.

(3) If the department has provided notice to a licensee or permittee as required by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and subsequently determines that summary suspension of the license or permit is necessary to prevent an imminent threat of financial loss to 1 or more producers with whom the licensee or permittee does business, the director may summarily suspend the license or permit. The director shall incorporate the determination in his or her order of summary suspension. The summary suspension may be ordered effective on the date specified in the order or the date of service upon the licensee, whichever is later, and is effective during the proceedings unless rescinded or otherwise modified. The department shall promptly commence and determine the proceedings.

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History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

288.675 Purchasing milk for resale or manufacture into another product; payment to producer; manner and dates; violation; issuance of check.

Sec. 115.

(1) A person purchasing milk for resale or manufacture into another product shall pay the producer in a manner and on dates as mutually agreed to by the producers, the dairy plant, and the department. The department shall revoke or deny a license issued under this act for a violation of this subsection.

(2) A dairy plant that produces manufactured dairy products shall not issue a check to the producer unless the name of the person issuing the check is noted on the check.

History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

288.676 Condition to issuance and maintenance of license; security required; exemption.

Sec. 116.

The department shall revoke or deny a license for a dairy plant that produces manufactured dairy products if the licensee or applicant fails to provide 1 of the security devices required as a condition to issuance and maintenance of a license. As a condition to issuance and maintenance of a license, a dairy plant that produces manufactured dairy products shall provide 1 or more of the security devices described in section 117, 118, or 119. Milk plants that receive milk only from dairy farms under the same sole proprietorship, the same registered partnership, or the same corporate ownership having the same registered name as the milk plant are exempt from the requirements of this section.

History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

288.677 Audited financial statement.

Sec. 117.

(1) A licensee or applicant for a license as a dairy plant not providing a security device under section 118 or 119 shall provide an audited fiscal year end financial statement prepared by a certified public accountant according to generally accepted accounting principles and a quarterly verified financial statement that verifies the licensee's ability to meet the ratio of 1.20:1 for minimum liquidity requirements of current assets to current liabilities.

(2) The audited financial statement, to be filed by the licensee not later than 120 days after the close of the licensee's fiscal year end, shall contain a balance sheet, income statement, equity statement, statement of cash flow, notes to the statements, and any other information required by the department. The department may extend the date for filing the audited financial statement by up to 30 days only upon the written request of the dairy plant or the dairy plant's accountant preparing the statement if the request is made not less than 10 days before the deadline for the filing of the statement. The request shall state the reason for the delay.

(3) The quarterly verified financial statement shall be filed within 60 days after the end of the fiscal quarter to which the statement pertains. The quarterly verified financial statement shall include, but not be limited to, a balance sheet, income statement, and any other information required by the department. The department may require a dairy plant that produces manufactured dairy products to file a supplementary or interim financial statement or provide additional information at any time pertaining to the financial statements filed under this subsection or to specific information requests made by the department. In determining whether the dairy plant has met the minimum liquidity requirement described in this subsection in an audited financial statement or verified financial statement, the department shall exclude all intangible assets and assets the department determines to be of doubtful value and may also exclude nontrade notes; accounts receivable from officers, directors, employees, partners, or stockholders or from members of their families; and notes and accounts receivable from parent organizations, subsidiaries, or affiliates if the department determines them to be of doubtful value.

(4) An applicant for a license that has not been in the business of receiving milk during the preceding 12 months shall only provide a security device other than an audited financial statement for at least the initial 12 months of licensed operation. At the end of the initial 12-month period, the department may allow the dairy plant to utilize an audited financial statement as a security device if the statement meets minimum liquidity requirements of this subsection and if the dairy plant is otherwise in compliance with this act.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.678 Other forms of security; request for information from financial and insurance services of department of consumer and industry services.

Sec. 118.

(1) A licensee or applicant for a license as a dairy plant not providing a security device under section 117 or 119 shall provide any of the following forms of security, in a form and subject to terms and conditions considered necessary by the department, for the benefit of producers who may be damaged by a default in payment, the value of which shall be in an amount determined by the department to be the greater of the value of the greatest milk

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receipts that the dairy plant has received within a consecutive 30-day period during that dairy plant's most recent fiscal year or the value of the greatest milk receipts that the dairy plant is anticipated to receive during a consecutive 30-day period within the licensing period:

(a) A commercial surety bond made payable to the department on a form provided by or acceptable to the department and subject to cancellation only after written notice to the department at least 90 days before cancellation. The commercial surety bond shall be issued by a surety company authorized to do business in this state and conditioned upon the faithful and proper discharge of the duty to pay a producer, when payment is due as provided for in section 115, for milk received by the dairy plant.

(b) A certificate of deposit or money market certificate that is issued or endorsed to the department and that cannot be canceled or redeemed, or from which funds cannot be transferred or withdrawn, without the written authorization of the department. The certificate shall be from a financial institution authorized to do business in this state whose deposits are federally insured.

(c) Stocks, bonds, or securities acceptable to the department that are issued or endorsed to the department and readily convertible to cash by the department and subject to redemption or sale only upon written permission of the department.

(d) An irrevocable letter of credit filed as security on a form provided by or acceptable to the department with the department and made payable to the department issued by a financial institution acceptable to the department and licensed to do business in this state. The letter of credit shall provide for automatic renewal unless, at least 90 days before the scheduled renewal date, the issuing financial institution gives written notice received by the department that the letter of credit is not to be renewed. The irrevocable letter of credit shall provide that in the event the financial institution gives timely notice of nonrenewal as set forth above, the department is permitted to draw on the letter of credit to cover any potential losses, whether known or unknown at the time of the draw, that have been or may be incurred on behalf of the producers. The money drawn from the letter of credit shall be held in an interest-bearing account by the department. Money in the account in excess of the total dollar amount of the approved claims after an adequate time period to discover and approve or disapprove claims shall be repaid to the bank. The excess money is to be paid to the milk plant if the bank has provided the department with a waiver of payment to the bank and has authorized payment to the dairy plant on a form approved by the department.

(e) Life insurance policies acceptable to the department that are issued or endorsed to the department that prohibit the insurer from making any payment to the policy beneficiaries unless the insurer first pays the equivalent of the cash surrender value to the department and provides that the cash surrender value is paid to the department upon cancellation or surrender of the policy.

(f) Other security acceptable to the department.

(2) The department may request information from the office of financial and insurance services of the department of consumer and industry services regarding the financial viability of the financial or insurance institution issuing any security device described in subsection (1).

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History: 2001, Act 267, Eff. Feb. 8, 2002

288.679 Cash prepayments.

Sec. 119.

A licensee or applicant for licensure as a dairy plant not providing a security device under section 117 or 118 shall provide an agreement in which the dairy plant prepays for its milk supply by means of cash payments before or at the time the milk is received at the plant.

History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

288.680 Cancellation or modification of security by dairy plant; notice required; manner; increase in amount due and accrued; applicability to dairy products in interstate commerce; disclosure of financial and product information; audited financial statement; complaint by producer requesting independent audit; filing; costs; suspension or revocation of dairy plant license; reinstatement.

Sec. 120.

(1) A dairy plant that produces manufactured dairy products shall not cancel or modify a security device unless written notice is given to the department by the dairy plant at least 90 days before the date of cancellation or modification and approval is given by the department for the cancellation or modification. The dairy plant shall send the notice of cancellation or modification to the department by certified mail.

(2) A dairy plant that produces manufactured dairy products shall notify the department at least 30 days before receiving dairy products that will increase the amount due and accrued from the dairy plant to an amount greater than the amount represented as a basis for the issuance of the license.

(3) Sections 116 to 121 and 123 do not apply to the sale of dairy products or manufactured dairy products in interstate commerce to an out-of-state purchaser not licensed under this act. The protection provided by these sections is available to a producer in another state selling dairy products to a licensee in this state.

(4) Except as otherwise provided for in subsection (5), financial and product information filed by a dairy plant that produces manufactured dairy products is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) Upon receipt of a written request, the department shall provide a producer a copy of the most recent audited financial statement of the dairy plant that produces the dairy products of that producer.

(6) A producer may file a written complaint with the department requesting an independent audit regarding the ability of a dairy plant that files an audited financial statement as a security device and that produces the dairy products of the producer to meet the minimum liquidity requirement described in section 117. The complaint shall be accompanied by a certified check in the amount of $100.00 and a signed document guaranteeing full payment for the audit if required under subsection (7). Upon receipt of the complaint and check, the department shall notify the dairy plant and advise the dairy plant of the choice of either having an independent audit conducted or of voluntarily modifying the security device to either of the alternatives provided for in section 118 or 119.

(7) A dairy plant that requests an independent audit under subsection (6) shall bear the cost of that audit if the department determines that the independent audit establishes the dairy plant's inability to meet the minimum liquidity requirement described in section 117. The complainant shall bear the cost of the audit if the department determines that the audit establishes that the dairy plant meets the minimum liquidity requirement described in section 117.

(8) If the dairy plant fails to meet the minimum liquidity requirement described in section 117, the department shall return to the complainant the fee described in subsection (6) and suspend or revoke the dairy plant's license in the manner provided for in section 113. The department may reinstate a suspended license or reissue a revoked license if the dairy plant provides the department with a security device described in section 118 or 119. If the department determines that the dairy plant meets the minimum liquidity requirement described in section 117, the $100.00 fee shall be forfeited to the dairy plant.

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History: 2001, Act 267, Eff. Feb. 8, 2002

288.681 Change in security device; circumstances requiring dairy plant to provide change or increase; notice sent by department to dairy plant; notice to producers.

Sec. 121.

(1) A dairy plant that produces manufactured dairy products may request a change in its security device at any time. The department shall allow the change in the dairy plant's security device if all requirements for the new security device have been met and all producers doing business with the licensee have been notified by the department.

(2) The department may require a dairy plant to provide a change or increase in a security device if the department has reason to believe, after reviewing relevant financial information, that 1 or more of the following circumstances exist:

(a) The dairy plant no longer meets the minimum liquidity requirement of this act.

(b) The dairy plant can no longer make payments in the manner provided for in section 115(1).

(c) The value of the dairy plant's security device falls below the requirements due to depreciation in the value of the security, an increase in the maximum liability to producers, or the cancellation or change of the security device as specified in this act.

(3) The department shall send written notice by certified mail to the dairy plant stating the reasons for the demand for change or increase in a security device and setting the date for providing the changed or increased security device.

(4) The department shall notify all producers shipping dairy products to a dairy plant that produces manufactured dairy products of the decision to require the dairy plant to modify or change a security device. The notice required under this subsection shall be provided within 5 days after the department's issuance of the order to require another security device.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.682 Breach of obligation; proof of claim or evidence of default; order requiring filing of claims by creditors; publication of notice; notice of allowance or disallowance; action by attorney general; distribution; other liens, security, or priority.

Sec. 122.

(1) A person injured by the breach of an obligation secured by a security device described in section 117, 118, or 119, including a producer and a person representing a commodity check-off program, may file with the department a verified proof of claim or other evidence of default. Upon receipt of a verified proof of claim or other evidence of default, the department may issue an order requiring each interested creditor, as may be known to the department, to file a verified proof of claim before a certain date or be barred from participating in any recovery made by the department.

(2) The department shall provide notice of the entry of an order issued under subsection (1) by posting a copy of the order on the premises described in the license and by publication in accordance with the Michigan court rules that govern service of process by publication. Publication shall be completed at least 30 days before the final date for the filing of claims.

(3) The department shall make the necessary audit and issue an order allowing or disallowing each claim presented. Within 30 days of that order, the department shall send to the principal and surety, by certified mail, notice of allowance or disallowance and request for the payment. The department shall demand and may collect and receive from the licensee, or from the surety or sureties of the licensee the amount determined to be necessary to satisfy the claims with interest at the judgment rate computed from the date of loss. The department may request that the department of attorney general commence an action for that purpose in a court of competent jurisdiction. If the attorney general prevails in whole or in part, the court shall award interest from the date of loss at the judgment rate. Upon receipt of money paid in partial or complete satisfaction of a claim as provided in this section, the department shall distribute to the claimant in accordance with the order allowing the claim, in full or proportionally.

(4) This section does not affect or impair any other lien, security, or priority for the claim or judgment.

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History: 2001, Act 267, Eff. Feb. 8, 2002

288.683 Notice to producers of type of security device used; form; qualifications for dairy plant license.

Sec. 123.

The department shall notify producers delivering dairy products to a licensed dairy plant that produces manufactured dairy products of the type of security device used for the benefit of producers and shall notify producers any time a license is issued, renewed, or modified. The notice sent by the department shall substantially conform to the following:

"Michigan law requires dairy plant licensees to demonstrate a reasonable degree of financial responsibility to the Michigan department of agriculture. This act is designed to provide reasonable assurance that producers will be paid for their milk; however, it does not guarantee that producers will be paid. Each producer has some responsibility for determining the credit-worthiness of the dairy plant to which the producer is selling milk. A dairy plant licensee may qualify for a license by doing 1 of the following:

(a) Filing financial statements audited by a certified public accountant with the department demonstrating that the dairy plant meets the minimum liquidity requirement.

(b) Filing security with the department in an amount determined by the department to be the greater of the following:

(1) The value of the greatest milk receipts that the dairy plant received within a consecutive 30-day period during

that dairy plant's most recent fiscal year.

(2) The greatest milk receipts that the dairy plant is anticipated to receive during a 30-day period within the licensing period.

(c) _____, (name of dairy plant licensee) is currently licensed on the basis of its audited financial statement meeting the minimum liquidity requirement of a current ratio of at least 1.20 to 1 current assets to current liabilities. The licensee's most recent year-end financial statement audited by the firm of _____ (auditor's name) meets the following minimum liquidity requirement,

(or)

_____ (name of dairy plant licensee) has filed security with the department to secure payment to producers. The maximum amount of security is the amount determined to be the greater of the following:

(1) The value of the greatest milk receipts that the dairy plant received within a consecutive 30-day period during that dairy plant's most recent fiscal year.

(2) The greatest milk receipts that the dairy plant is anticipated to receive within a 30-day period within the licensing period, whichever is greater.

The security filed is in the following form or forms and in the amount of: _____".

History: 2001, Act 267, Eff. Feb. 8, 2002

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288.684 Conduct as misdemeanor; penalty.

Sec. 124.

A person, alone or through an agent, as the agent of any other person, or as the officer or agent of any firm or corporation, who does any of the following is guilty of a misdemeanor punishable by a fine of not less than $250.00 and not more than $2,500.00 or imprisonment for not more than 90 days, or both:

(a) Violates this act or a rule promulgated under this act.

(b) Provides false or fraudulent information on an application or in response to a request from the director.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.685 Selling milk found positive for violative drug residues; sanctions and administrative fines.

Sec. 125.

(1) The director shall impose upon a producer who violates this act by selling or offering for sale milk which has been found positive for violative drug residues on a test performed pursuant to sections 131 and 132 the following sanctions and administrative fines and provide notice and the opportunity for an administrative hearing:

(a) The following in the case of a first violative drug residue within a 12-month period:

(i) The producer's milk shall not be offered for sale until a subsequent sample of the producer's milk tests negative for violative drug residues at an approved laboratory.

(ii) The producer shall pay an administrative fine of $50.00 to the department upon the violative shipment, as determined by an approved drug residue test. The milk buyer may pay the administrative fine, if a like amount has been deducted from the producer's milk check. If the producer's violative shipment caused the partial or total loss of a load of milk, the producer shall pay directly to the milk buyer an additional administrative fine equal to the lost value of the contaminated load and any costs associated with the disposition of that load. The department shall be provided with written notification of the payment. Written notification shall also be provided to the department of the date and location of the disposal of the entire contaminated load. Where a producer markets their own load of milk, the producer shall provide written notification to the department of the date and location of the disposal of the entire contaminated load.

(b) The following in the case of a second violative drug residue within a 12-month period:

(i) The producer's milk shall not be offered for sale until a subsequent sample of the producer's milk tests negative for violative drug residues at an approved laboratory.

(ii) The producer shall pay an administrative fine of $200.00 to the department upon the violative shipment, as

determined by an approved drug residue test. The milk buyer may pay the administrative fine, if a like amount has been deducted from the producer's milk check. If the producer's violative shipment caused the partial or total loss of a load of milk, the producer shall pay directly to the milk buyer an additional administrative fine equal to the lost value of the contaminated load and any costs associated with the disposition of that load. The department shall be provided with written notification of the payment. Written notification shall also be provided to the department of the date and location of the disposal of the entire contaminated load. Where a producer markets their own load of milk, the producer shall provide written notification to the department of the date and location of the disposal of the entire contaminated load.

(iii) The producer will be required to test all milk prior to shipment with a drug residue test acceptable to the director for a minimum of 12 months and must retain records of these tests for a minimum of 18 months.

(iv) The producer will be required to maintain complete drug treatment records for all lactating or near lactating dairy animals for a minimum of 12 months and shall retain records of these treatments for a minimum of 18 months.

(c) The following in the case of a third or any additional violative drug residue within a 12-month period:

(i) The producer's milk shall not be offered for sale until a subsequent sample of the producer's milk tests negative for violative drug residues at an approved laboratory.

(ii) The producer shall pay an administrative fine of $500.00 to the department upon the violative shipment, as determined by an approved drug residue test. The milk buyer may pay the administrative fine, if a like amount has been deducted from the producer's milk check. If the producer's violative shipment caused the partial or total loss of a load of milk, the producer shall pay directly to the milk buyer an additional administrative fine equal to the lost value of the contaminated load and any costs associated with the disposition of that load. The department shall be provided with written notification of the payment. Written notification shall also be provided to the department of the date and location of the disposal of the entire contaminated load. Where a producer markets its own load of milk, the producer shall provide written notification to the department of the date and location of the disposal of the entire contaminated load.

(iii) The suspension of the producer's permit for a period not to exceed 60 days after notice and the opportunity for an administrative hearing before the department.

(iv) The producer will be required to test all milk prior to shipment with a drug residue test acceptable to the director for a minimum of 12 months and must retain records of these tests for a minimum of 18 months.

(v) The producer will be required to maintain complete drug treatment records for all lactating or near lactating dairy animals for a minimum of 12 months and must retain records of these treatments for a minimum of 18 months.

(2) The director may accept verification, on forms acceptable to the director, from the violative producer's milk marketing cooperative or purchaser of milk as satisfying the penalty requirements and may verify the information.

(3) The disposal method and location of disposal for violative drug residue milk on the milk tank truck shall be immediately reported to the director, by the party making the disposal, on forms provided by and acceptable to the director.

(4) The director shall investigate the cause of the violative drug residue and shall discuss drug residue avoidance control measures with the violative producer.

(5) Selling or offering for sale milk which has been found violative for drug residues is determined by either of the following criteria:

(a) When milk is picked up from a milk producer by a milk tank truck and not commingled with milk from other producers, the milk becomes subject to possible drug residue penalties at the point the milk tank truck leaves the farm with the milk.

(b) When milk is picked up from a milk producer by a milk tank truck and commingled with milk from other producers, it becomes subject to possible drug residue penalties at the point of commingling.

(6) Section 124 applies to a producer who violates this act by selling or offering for sale milk which tests positive for violative drug residues on a test performed pursuant to sections 131 and 132 only under the following circumstances:

(a) The producer fails to pay the administrative fine required by subsection (1) in compliance with subsections (8) and (9).

(b) The producer has been fined under subsection (1) within the preceding 12-month period 3 or more times.

(7) After notice and an opportunity for an administrative hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the director may revoke or suspend a license or permit issued under this act for any violation of this act or a rule promulgated under this act. Except as otherwise provided for under subsection (1), upon finding that a person violated a provision of this act or rule promulgated under this act, the director may impose an administrative fine of not more than $1,000.00 and the actual costs of the investigation of the violation.

(8) The administrative fines imposed under subsection (1) or (7) shall be paid to the department within 10 days after notification of the violation and fine or within 10 days after notification of adverse findings following a hearing or appeal, or both. The administrative fines received by the department under this section shall be deposited into the dairy and food safety fund as provided for in section 110(23).

(9) Failure to pay a load contamination or any other administrative fine imposed under this section within 120

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days without making acceptable arrangements for payment of the fine may result in license revocation or permit suspension or court action, following notice and the opportunity for an administrative hearing.

(10) The director shall advise the attorney general of the failure of any person to pay an administrative fine imposed under this section. The attorney general shall bring an action in court of competent jurisdiction to recover the fine.

(11) A decision of the director under this section is subject to judicial review as provided by law.

(12) This section does not require the director to issue an administrative fine or initiate court action for minor violations of this act whenever the department believes that the public interest will be adequately served under the circumstances by a suitable written notice or warning.

History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008 ;-- Am. 2010, Act 42, Imd. Eff. Mar. 31, 2010

288.686 Restraining order.

Sec. 126.

In addition to the remedies otherwise provided in this act, the department may apply to circuit court to grant a temporary or permanent injunction restraining any person from violating this act or any rule promulgated pursuant to this act, irrespective of whether there exists an adequate remedy at law.

History: 2001, Act 267, Eff. Feb. 8, 2002

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Article 13

288.690 Milk for human consumption; compliance with requirements for eradication of tuberculosis and brucellosis; prohibited sale; disposal; milking barn or milking parlor; yard and loafing area; duties of person obtaining milk from dairy animal; milkhouse or milkroom; dairy farm bulk tank; milk shipping.

Sec. 130.

(1) A person who offers milk to the public for human consumption shall obtain that milk from dairy animals that are located in areas under federal or state supervision for the eradication of tuberculosis and brucellosis and comply with those requirements for eradication of tuberculosis and brucellosis. Each animal that produces milk for human consumption shall be properly maintained and fed in a manner consistent with department recommendations for the maintenance of animals of that kind. Any dairy animals that are officially classified as tuberculosis reactors as defined in the animal industry act, 1988 PA 466, MCL 287.701 to 287.745, shall be milked last or in separate equipment and the milk from these dairy animals shall not be used or sold for human or animal consumption.

(2) A person shall not sell or offer for human consumption milk that is known to the person to be any of the following:

(a) Infected with mastitis or showing signs of being bloody, ropy, or clumpy.

(b) Carrying a violative drug residue in an amount that exceeds the maximum permitted under state or federal law.

(c) Containing a pesticide or other chemical in excess of the maximum amount permitted under state or federal law.

(d) Not normal and fresh in odor or appearance or containing excessive coarse sediment when examined organoleptically, visually, or by an accepted test procedure.

(e) Containing excessive sediment as determined by sediment test methods provided in standard methods for the examination of dairy products and classified to USDA sediment standards as more than a no. 3.

(f) Exceeds legal temperature, bacterial, or somatic cell limits.

(3) A person in possession of milk described in subsection (2) shall dispose of that milk in the manner directed by the department.

(4) A milking barn or milking parlor shall be all of the following:

(a) Well-lighted and ventilated.

(b) Of a size and arrangement adequate to provide for sanitary milking operations.

(c) Constructed with floors and gutters of concrete or other impervious material.
(d) Kept clean, with manure removed daily and stored out of reach of the animals that are subject to milking.
(e) Kept free of swine or fowl at all times.
(f) Constructed with a dust-tight ceiling.
(5) The yard and loafing area for dairy animals shall be all of the following:
(a) Of ample size to prevent overcrowding.
(b) Drained to prevent the formation of standing pools.
(c) Kept as clean as is practicably possible.
(6) A person who obtains milk from a dairy animal shall do all of the following:
(a) Ensure that the udders and flanks of the animal are kept clean.
(b) Wash and wipe the udders and teats of the animal immediately before milking with a clean cloth or paper towel that is treated with an approved sanitizing solution and dried with a clean cloth or paper towel after washing, or use any other method approved by the department.
(c) Wear clean outer clothing.
(d) Maintain clean and dry hands during milking.
(e) Refrain from handling the animal, milk containers, milking utensils, and equipment at any time the person has an infected cut or open sore on either of his or her hands or arms.
(f) Milk last or with separate equipment those animals that secrete abnormal milk and exclude that abnormal milk from the milk that will be offered for human consumption.
(g) Maintain and properly store milk stools, surcingles, and antikickers.
(h) Refrain from conducting an activity that raises dust in the milking area immediately before or during milking.
(i) Store feed and concentrates in a tightly covered container.
(j) Except for milk that is delivered to a processing plant within 2 hours after the milking, cool and store milk that is contained in cans and that will be used exclusively for cheese manufacturing at 60 degrees Fahrenheit (16 degrees Celsius) or lower at the farm within 2 hours after the milking.
(k) Cool milk that is stored in a dairy farm bulk tank to 50 degrees Fahrenheit (10 degrees Celsius) within 4 hours or less of the commencement of the first milking, and to 45 degrees Fahrenheit (7 degrees Celsius) or less within 2 hours after milking, provided that the blend temperature after the first milking and subsequent milkings does not exceed 50 degrees Fahrenheit (10 degrees Celsius).
(7) A milkhouse or milkroom shall be all of the following:
(a) Well-lighted and ventilated. Lighting in the milkhouse shall be adequate for milkhouse operations. A minimum of 1 light for the wash vat and a light for each bulk tank opening shall be provided. Nonelectric farms shall have the minimum of 1 battery-operated light for each bulk tank opening. Lights shall not be positioned directly over bulk tank openings. Fuels used for milkhouse operations shall not cause odors that may impart off-flavors to the milk.
(b) Located in convenient proximity to a milking barn or milking parlor.
(c) Constructed in accordance with applicable building codes, with each of the following:
(i) A floor of concrete or other impervious material, graded to provide appropriate drainage.
(ii) Walls and ceiling of a smooth, readily cleanable material.
(iii) A platform or slab constructed of concrete or other impervious material at the exterior of the milkhouse or milkroom, centered beneath a suitable opening, fitted with a tight, self-closing door, located on the exterior wall for milkhouse or milkroom connections to bulk milk tanks. The platform or slab shall be a minimum of 4 feet by 4 feet to provide sufficient room and clean surface for the milk hauler to stand and handle the milk transfer hose.
(iv) A truck approach to the milkhouse or milkroom, properly graded and surfaced to prevent mud or pooling of water at the milk loading point.
(d) Equipped with a wash and rinse vat, utensil rack, and milk cooling facilities, for the handling and cooling of milk, and for the washing, handling, and storage of milking utensils and equipment.
(e) Free of any product that the department determines is likely to contaminate milk or create a public health hazard.
(f) Equipped with a supply of hot water adequate for cleaning milk utensils and equipment.
(g) Designed without a direct opening, and with a solid, tight-fitting, self-closing door, at any entrance to a barn, stable, or milking parlor.
(h) Designed with screens at all outside openings, unless another means is provided to prevent the entrance of insects or rodents into the milkhouse or milkroom. Screen doors shall be tight-fitting and self-closing and open outward. Toilet facilities located adjacent to the milkhouse or milking facilities shall have self-closing doors and all outside openings shall be screened.
(i) Plans for new facilities, remodeled facilities, or new equipment installations must be submitted to the department for prior approval.
(8) A dairy farm bulk tank shall be located in a milkhouse or milkroom in a manner that allows access to all areas of the tank for cleaning and servicing. A dairy farm bulk tank shall not be placed over a floor drain or under a ventilator or unprotected light fixture. A dairy farm shall ensure that each new farm bulk tank meets sanitary

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standards and is installed in accordance with department specifications.

(9) The owner or operator of a milkhouse or milkroom shall ensure all of the following:

(a) That the milkhouse or milkroom is clean and free of contaminants, animals, and fowl.

(b) That an unapproved pesticide is not stored in the milkhouse or milkroom.

(c) That any pesticide used in or near the milkhouse or milkroom is used in accordance with label instructions to prevent the contamination of milk or equipment.

(d) That each utensil, milk can, milking machine, pipeline system associated with a milking machine, and other equipment used in the handling of milk is maintained in good condition, free from rust, open seams, milkstone, and any unsanitary condition.

(e) That each utensil and item of equipment used in the handling of milk is of a smooth, noncorrosive material, washed, rinsed, and drained after each milking, stored in an appropriate manner, and sanitized immediately before use, by using dairy cleaners, detergents, sanitizing agents, or other similar materials labeled for dairy or food service use that will not contaminate or adversely affect the milk.

(f) That each dairy farm tank used on the premises is constructed of a material or materials approved by the department and installed in accordance with subsection (11).

(g) That each item that is designed for a single use is properly stored and is not reused.

(h) That the dairy farm water supply complies with the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023, or, if the water supply is not new or reconstructed after April 1, 1994, the water supply is annually tested by a laboratory approved by the department and found to be of safe and satisfactory quality and in compliance with guidelines established by the department of community health.

(i) That waste products are disposed of in a manner that will not pollute the soil surface, contaminate a feed, milk, or water supply, or be exposed to insects.

(10) A producer who ships milk in cans shall do each of the following:

(a) Ensure that each milk can used in transporting milk from dairy farm to plant is seamless with an umbrella lid for easy cleaning.

(b) Inspect, repair, and replace milk cans as necessary to prevent the use of cans and lids with open seams, cracks, rust, milkstone, or any unsanitary condition.

(11) A producer who ships milk from a farm bulk tank shall comply with the following:

(a) A farm tank on a dairy farm shall be installed so as to remain level at all times.

(b) A farm tank shall have an accurate indicating thermometer stored in the milkhouse which may be either an integral thermometer in the farm tank or an approved thermometer acceptable to the director.

(c) A farm tank shall have a calibrated means of measurement and an accurate and legible volume to weight conversion chart, unless the farm tank is mounted on an accurate scale. All measuring devices must be in compliance with the weights and measures act, 1964 PA 283, MCL 290.601 to 290.634.

(d) A conversion chart shall bear the same serial number as that found on the farm tank and measuring rod.

(e) The producer is responsible for recalibrating a farm tank that does not have an accurate conversion chart. A recalibration must be in compliance with the weights and measures act, 1964 PA 283, MCL 290.601 to 290.634. A person shall not adjust, alter, or change a conversion chart unless the change, alteration, or adjustment is made strictly according to the requirements of the weights and measures act, 1964 PA 283, MCL 290.601 to 290.634.

(f) A farm tank shall not be filled to a capacity that exceeds the calibrated limits as indicated by the conversion chart. If the producer wishes to fill the tank nearer to the top, the tank shall be calibrated to an additional height, which still permits proper agitation without spillage.

(g) Milk to be offered for sale shall be cooled and stored in the farm tank equipped with cooling and agitation. Other cooling and storage facilities may be used when approved in writing by the director on a case-by-case basis.

(h) Milk production shall be of sufficient quantity so that it can be properly agitated not later than at the completion of the first milking into the farm tank.

(i) Facilities for effectively sanitizing farm tanks shall be provided by the producer.

History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

288.691 Transporting milk; vehicles; duties of licensed bulk milk hauler/sampler; testing of milk by dairy plant, transfer station, or receiving station.

Sec. 131.

(1) The department shall issue a license or permit to haul cans of milk to the owner or operator of a truck or vehicle used for hire to transport milk in cans from the farm to the dairy plant.

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(2) The owner of all trucks used to transport milk in cans shall ensure that vehicles used comply with each of the following:

(a) Each vehicle is enclosed, constructed, and operated to protect the product from extreme temperature, dust, or other adverse conditions and is kept clean.

(b) If more than 1 tier of cans is carried, the vehicle contains decking boards or racks.

(c) Each vehicle contains cans that are used solely for the transportation of milk from the farm to the plant and for no other purpose.

(3) A licensed bulk milk hauler/sampler shall collect samples of milk from each load of milk he or she receives for transport pursuant to the grade A milk law of 2001. A milk tank truck driver engaged in direct farm pickup has direct responsibility for accompanying official samples.

(4) A licensed bulk milk hauler/sampler or milk transportation company shall do each of the following:

(a) Ensure that the exterior shell of each bulk milk pickup tanker is clean and free from open seams or cracks.

(b) Ensure that the interior shell of each bulk milk pickup tanker is stainless steel and constructed to prevent buckling, sagging, or incomplete drainage.

(c) Ensure that all product contact surfaces are smooth, easily cleaned, and maintained in good repair.

(d) Fully enclose the pump and hose cabinet with tight-fitting doors and provide inlet and outlet dust covers to give adequate protection from road dust.

(e) Ensure that each new and replacement bulk milk pickup tanker complies with sanitary standards. Each licensed or permitted milk tank truck shall be used solely for the transportation of milk or dairy products or for other food or potable commodities approved by the department.

(f) Deliver producer samples collected pursuant to this section to the dairy plant or receiving station as specified by the department.

(g) License or permit the milk tank truck pursuant to the grade A milk law of 2001.

(h) Ensure that milk over 96 hours old is not picked up from a dairy farm, with the exception of goat milk, which may be stored for 7 days, and sheep milk, which may be frozen for extended storage and transportation.

(5) The dairy plant, transfer station, or receiving station, or a laboratory selected by the dairy plant, transfer station, or receiving station that is approved by the department, shall test each producer's milk for each of the following, in accordance with standard methods for the examination of dairy products, referenced in 7 CFR part 58, adopted by reference, at least 4 out of every 6 months and report the following results to the department:

(a) The presence of bacteria by standard plate count or plate-loop count.

(b) The presence of a violative beta lactam drug residue using any test approved by the department or the food and drug administration for that purpose.

(c) The presence of somatic cells using either a direct microscopic somatic cell count test or an electronic somatic cell count test.

(d) Temperature at time of bulk hauler pickup on the farm or temperature of milk in cans when delivered to the dairy plant, transfer station, or receiving station.

(e) Sediment as described in section 132(8)(e).

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History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

288.692 Load samples; testing for violative drug residue; disposal of milk testing positive; identification of producer of milk testing positive; copies of test results; processing or availability of raw milk; milk exceeding certain limits; determining and remedying cause of illegal somatic cell count, temperature, or bacteria; permit suspension; reinstatement; shipping prohibited; duties of milk representative.

Sec. 132.

(1) All milk shipped for processing or intended to be processed on the farm where it was produced shall be sampled and tested, prior to processing, for beta lactam drug residues. Collection, handling, and testing of samples shall be done according to procedures established by the department.

(2) A load sample shall be taken from the bulk milk pickup tanker after its arrival at the plant and prior to further commingling or processing. A load sample representing all of the can milk received on a shipment shall be collected at the plant, using a sampling procedure that includes milk from every can on the vehicle. A load sample taken by the processor shall be collected at the plant using a sampling procedure that includes all milk produced and received.

(3) A load sample that tests positive for a violative drug residue shall be retained according to standards established by the department as provided by law. The records of all sample test results shall be retained for a

period of not less than 12 months.

(4) When a load sample tests positive for a violative drug residue, industry personnel shall notify the department immediately of the positive test result and of the intended disposition of the shipment of milk containing the violative drug residue. All milk testing positive for a violative drug residue shall be disposed of in a manner that removes it from the human or animal food chain, except when acceptably reconditioned under FDA compliance policy guidelines as approved by the department. Each individual producer sample represented in the violative drug residue load sample shall be singly tested as directed by the department to determine the producer of the milk sample testing positive for a violative drug residue. Identification of the producer responsible for producing the milk testing positive for a violative drug residue shall be reported immediately to the department. Milk shipment from the producer identified as the source of milk testing positive for a violative drug residue shall cease immediately and may resume only after a sample from a subsequent milking does not test positive for a violative drug residue.

(5) The dairy plant or receiving station responsible for a test described in this section shall deliver a copy of the test result to the department within 10 days after the dairy plant or receiving station receives the test result. The producer is required to insure the department is provided the required number of producer's milk quality test results. The dairy plant or receiving station shall maintain an original or copy of the test result for at least 1 year.

(6) Raw milk shall not be processed or made available for human consumption under any of the following circumstances:

(a) The bacterial estimate for that milk that is not used to make cheese exceeds 500,000 per milliliter.

(b) The bacterial estimate for that milk that is used to make cheese exceeds 750,000 per milliliter.

(c) The milk contains a violative drug residue at a level that exceeds department limits for drug residue content.

(d) The somatic cell count for that milk exceeds 1,000,000 cells per milliliter.

(7) If a test under this section or section 131 indicates the presence of a violative drug residue at a level that exceeds department limits for drug residue content, the person who provided the milk for testing shall notify the producer of that milk and the department of the test result. Upon receipt of a notice under this subsection, the producer of that milk and any processor of that milk shall ensure that the milk is not made available for human consumption and a processor shall not purchase additional milk from that producer until the department determines that the producer has eliminated the cause of the violative drug residue.

(8) A milk buyer who receives notice or determines that a producer's milk exceeds legal somatic cell levels, temperature standards, or bacteria levels shall do all of the following:

(a) Within 7 days after receipt of the notice, inspect the milk producer's facility and attempt to determine the cause or causes of the illegal somatic cell level, temperature level, or bacterial level.

(b) If the milk buyer determines that the producer's milk contains somatic cells, temperature, or bacteria at a level exceeding department limits for somatic cells, temperature, or bacteria in 2 of the 4 most recent tests of the producer's milk, notify the department and the producer of that determination.

(c) Obtain a subsequent sample of the producer's milk not less than 3 days or more than 21 days after the department inspects the producer's facility pursuant to this subsection.

(d) If the sample described in subdivision (c) contains somatic cells, or temperature or bacteria at a level exceeding department limits, notify the department and refrain from obtaining any further milk from the producer once the director suspends the producer's permit and until the permit is reinstated.

(e) The buyer shall examine sediment levels in each producer's milk using procedures described in standard methods, referenced in 7 C.F.R. part 58. Samples shall be from a bulk milk tank sample or from 1 or more cans. Sediment content shall be based on comparison with applicable charts of the United States department of agriculture sediment standards for milk and milk products, dated 1977, incorporated by reference. The buyer shall report the results of these sediment tests to the department.

(9) Immediately following receipt of notice described in subsection (8)(b), the department shall inspect a milk producer's facility and attempt to determine and remedy the cause of an illegal somatic cell count, temperature, or bacteria. The department shall provide the milk producer with a written warning notice of intent to suspend permit, and the notice shall remain in effect for the period during which 2 of the 4 most recent samples collected under this section remain at a level exceeding department limits. Another sample will be collected after 3 days but within 21 days. If any sample so collected exceeds the limit for that parameter while the milk producer is on warning notice, the milk producer's permit will be suspended until the problem is corrected to the satisfaction of the department, after being provided notice and an opportunity for an administrative hearing. Four samples shall then be taken at the rate of not more than 2 per week on separate days within a 3-week period, and the department shall reinstate the permit upon compliance with the appropriate standard.

(10) When a permit suspension has been due to a violation of the somatic cell count standard, the department may issue a temporary permit whenever a resampling of the herd's milk supply indicates the milk supply to be within acceptable limits as listed in section 70. Four samples shall then be taken at the rate of not more than 2 per week on separate days within a 3-week period, and the department shall reinstate the permit upon compliance with the appropriate standard listed in section 70.

(11) A dairy farm shall not ship milk for human consumption until the occurrence of each of the following:

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(a) The dairy farm notifies the buyer and the department of its intent to become a milk shipper.

(b) The department inspects the dairy farm and completes a written report verifying that the dairy farm is in substantial compliance with this act.

(c) The department issues to the dairy farm a permit or temporary permit without charge.

(12) A representative of the milk buyer shall do each of the following:

(a) At least once annually, inspect all farms shipping milk to that dairy plant or receiving station.

(b) For each inspection described in subdivision (a), complete an inspection form approved by the department that identifies all minimum requirements for milk manufacturing.

(c) Deliver a copy of the completed inspection form to the owner or operator of the inspected farm, provide a copy of the completed inspection form to the department, and file a copy of that form with the records of the dairy plant or receiving station.

(d) If an inspection under this subsection establishes the existence of a condition that adversely affects milk quality, conduct a subsequent inspection not later than 30 days after the original inspection.

(13) If adverse conditions continue after an inspection described in subsection (12)(d), the representative of the milk buyer shall notify the department. The department may suspend or revoke the dairy farm's permit for failure to rectify a condition that adversely affects milk quality.

History: 2001, Act 267, Eff. Feb. 8, 2002

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288.693 Examination of test results and inspection of dairy farms; frequency.

Sec. 133.

The department may examine test results and inspect dairy farms as frequently as the department determines necessary to assure compliance with this act. Upon receipt of a written request from a person who purchases milk produced at a dairy farm subject to this act, the department shall provide that person with a copy of the department's inspection reports for the dairy farm.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.694 Failure of producer to meet minimum quality standards.

Sec. 134.

(1) A producer who fails to meet minimum quality standards set forth in section 70 or correct insanitary farm conditions after the milk buyer or the department intervenes under this act is prohibited from selling milk for human consumption. After being prohibited, that producer may sell milk for human consumption only if the department determines that the conditions that caused the noncompliance have been corrected.

(2) A person shall not accept milk from a producer prohibited from selling milk under this section unless the department has determined that the condition causing the prohibition against that producer has been remedied.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.695 Incoming raw milk and manufactured dairy products; samples.

Sec. 135.

Incoming raw milk and manufactured dairy products shall not exceed the standards set forth in section 70. Plants receiving commingled raw milk, heat treated, or pasteurized milk will be sampled a minimum of 4 out of every 6 months. If 2 of the last 4 samples exceed the standard given, a warning notice shall be issued and the plant

shall remain on warning notice as long as any 2 of the last 4 consecutive samples exceed the limits. Another sample will be collected after 3 days but within 21 days. If any sample so collected exceeds the limit of that parameter while the plant is on warning notice, the plant permit will be suspended for the violative product until the problem is corrected, after being provided notice and an opportunity for an administrative hearing. Four samples shall then be taken at the rate of not more than 2 per week on separate days within a 3-week period, and the department shall reinstate the permit for that product upon compliance with the appropriate standard. Sterilized or aseptically processed milk and dairy products shall comply with processing and biological standards established by the scheduled process under 21 C.F.R. part 113.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.696 Pasteurized milk and dairy products; sale; processing as low-acid foods.

Sec. 136.

(1) Only pasteurized milk and dairy products shall be offered for sale or sold, directly or indirectly, to the final consumer or to restaurants, grocery stores, or similar establishments except as specified in section 138.

(2) Milk and dairy products may be aseptically processed as low-acid foods provided they comply with the following requirements:

(a) All thermally processed milk and milk products that are packaged in hermetically sealed containers are processed in a milk processing facility licensed under this act, the grade A milk law of 2001, or the food law of 2000.

(b) All processors of acidified milk and milk products packaged in hermetically sealed containers comply with the regulations of the United States food and drug administration in 21 CFR part 108, 21 CFR part 110, and 21 CFR part 114.

(c) All thermally processed milk and milk products that are packaged in hermetically sealed containers comply with the regulations of the United States food and drug administration in 21 CFR part 108, 21 CFR part 110, and 21 CFR part 113.

(d) Hermetically sealed packages are handled to maintain product and container integrity.

History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

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288.697 "Pasteurization" and "pasteurized"; temperature and time relationships.

Sec. 137.

The terms "pasteurization", "pasteurized", and similar terms mean the process of heating every particle of milk or dairy products to at least the temperature and time relationships given in this section as follows or by any equivalent process approved by the federal food and drug administration and accepted by the department for that purpose:

Minimum Vat Pasteurization Temperature and Time Standards		
Whole milk; skim milk; cheese milk; whey; other products with less than 10% butterfat or without added sweeteners	145°F (63°C)	30 min
Cream; condensed products; other products with 10% or more butterfat or with added sweeteners	150°F (66°C)	30 min
Eggnog; frozen dessert mix	155°F (69°C)	30 min
Cream for butter making	165°F (74°C)	30 min
Milk or cream for plastic or frozen cream	170°F (77°C)	30 min
Minimum High Temperature Short Time (HTST), Higher Heat Short Time (HHST) and		

Aseptic Pasteurization Temperature and Time Standards		
Whole milk; skim milk; cheese milk;	161°F (72°C)	15 sec
whey; other products with less than 10%	191°F (89°C)	1.0 sec
butterfat or without added sweeteners	194°F (90°C)	0.5 sec
	201°F (94°C)	0.1 sec
	204°F (96°C)	0.05 sec
	212°F (100°C)	0.01 sec
Cream; condensed products; other	166°F (75°C)	15 sec
products with 10% or more butterfat	196°F (92°C)	1.0 sec
or with added sweeteners	199°F (93°C)	0.5 sec
	206°F (97°C)	0.1 sec
	209°F (99°C)	0.05 sec
	217°F (103°C)	0.01 sec
Eggnog; frozen dessert mix	175°F (80°C)	25 sec
	180°F (83°C)	15 sec
Cream for butter making	185°F (85°C)	15 sec
Milk or cream for plastic or		
frozen cream	190°F (88°C)	15 sec
Ultra-pasteurized products	280°F (138°C)	2 sec

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History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

288.698 Manufacture of cheese; use of unpasteurized milk.

Sec. 138.

Unpasteurized milk may be used in the manufacture of cheese only as allowed in 21 C.F.R. part 133, incorporated by reference, and if the cheese has been cured or ripened (aged) for more than 60 days at a controlled temperature of not less than 35 degrees Fahrenheit (2 degrees Celsius), or as specified by FDA.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.699 Milk and dairy products; pasteurization required; cooling; equipment; temperature; ingredients added before or after pasteurization; repasteurized condensed milk; design and operation of pasteurization equipment.

Sec. 139.

(1) Except as provided in section 138, all milk and dairy products shall be pasteurized before entrance of the milk and dairy products into any of the following:

(a) The evaporator or condensing equipment.

(b) The cheese-making process.

(c) The cheese culture making process.

(d) The frozen dessert mix freezing.

(e) The cultured product culturing.

(2) All dairy by-products from dairy plants used for feeding purposes for farm animals shall be pasteurized or be derived from pasteurized products when specified by the director.

(3) All milk and dairy products shall be pasteurized at the plant at which they are processed or dried, except for crystalized condensed whey and other high solids/low water activity products such as sweetened condensed milk, which shall be transported in tankers or containers dedicated to transporting pasteurized products. This subsection shall not be construed as banning the transportation in nondedicated tankers of pasteurized milk or dairy products to another processing or drying plant for repasteurization and processing or drying.

(4) All pasteurized milk and dairy products, except those to be cultured and those to receive immediate additional heat treatment in subsequent processes of manufacturing, shall be cooled immediately in approved equipment to temperature criteria specified in section 70 or maintained at or above 145 degrees Fahrenheit (63 degrees Celsius).

(5) All pasteurization equipment shall comply with sanitary standards and shall be tested by the department every 3 months for proper construction and operation.

(6) The airspace temperature in a vat pasteurizer shall be maintained at least 5°F (2.8°C) above the minimum pasteurization temperature for the product being pasteurized during the entire 30-minute vat pasteurization cycle.

(7) All milk and milk products (i.e., milk solids, whey, nonfat dry milk, condensed milk, cream, skim milk, etc.), eggs, egg products, cocoa, cocoa products, emulsifiers, stabilizers, vitamins, and liquid sweeteners shall be added prior to pasteurization. All such additions shall be made in a sanitary manner, which prevents the contamination of the added ingredient or the milk or milk product. Ingredients that may be added after pasteurization are those flavoring ingredients and other ingredients that have been found to be safe and suitable and include:

(a) Ingredients permitted by the CFR standards of identity when considering a standardized milk or milk product.

(b) Fresh fruits and vegetables added to cultured milk and milk products provided the resultant equilibrium pH level (4.6 or below when measured at 24°C (75°F)) of the finished product is reached without undue delay and is maintained during the shelf life of the product.

(c) Ingredients subjected to prior heating or other technology that has been demonstrated to the United States food and drug administration to be sufficient to destroy or remove pathogenic microorganisms.

(d) Ingredients having a water activity (Aw) of 0.85 or less.

(e) Ingredients having a high acid content (pH level of 4.6 or below when measured at 24°C (75°F)) or high alkalinity (pH level greater than 11 when measured at 24°C (75°F)).

(f) Roasted nuts.

(g) Dry sugars and salts.

(h) Flavor extracts having a high alcohol content.

(i) Safe and suitable bacterial cultures and enzymes.

(j) Ingredients that have been found to be safe and suitable by the United States food and drug administration.

(8) All milk and milk products shall be pasteurized, prior to the entrance into RO, UF, evaporator, or condensing equipment, and shall be performed in the milk plant where the processing is done, except that the following apply:

(a) If the product is whey, pasteurization is not required if the product is acid whey (pH less than 4.7) or if it is processed in RO or UF equipment at temperatures at or below 7°C (45°F).

(b) If the product is raw milk for pasteurization, the product may be concentrated by the use of RO or UF membrane filtration without pasteurization, prior to entrance into the equipment, provided that the following sampling, testing, design, installation, and operational criteria are met:

(i) Prior to processing, all raw milk supplies are sampled and tested for antibiotic residues in accordance with the provisions of this law.

(ii) The RO or UF filtration system is designed and operated to assure that milk or milk product temperature is maintained at or below 7°C (45°F) throughout the process, provided that the product temperature may rise above 7°C (45°F) for a period of not more that 15 minutes, further provided that should the product temperature rise above 10°C (50°F), the product shall be immediately diverted until the product is again below 7°C (45°F). Diverted

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product shall be discarded, immediately cooled to below 7°C (45°F), or immediately pasteurized.

(iii) The RO or UF system must be equipped with temperature monitoring and recording devices that comply with the applicable specifications outlined in the grade A milk law of 2001. At a minimum, milk or milk product temperature shall be monitored and recorded prior to entering the system, prior to entering each stage of the modules in series that contain cooling, and the retentate stream prior to any final cooler and upon exiting the system.

(iv) If the RO or UF system is not designed, installed, and operated in accordance with the above noted criteria, the raw milk or milk product must be pasteurized prior to entering the RO or UF system.

(9) All condensed milk and milk products transported to a milk plant for drying shall be repasteurized at the milk plant where they are dried.

(10) If condensed whey containing at least 40% total solids has been partially crystallized by cooling, it may be transported to a separate milk plant for drying without repasteurization, provided that the following conditions are complied with:

(a) The condensed, partially crystallized whey is cooled and maintained at 7°C (45°F) or less.

(b) Milk tank trucks used to transport the condensed, partially crystallized whey are washed and sanitized immediately prior to filling and are sealed after filling until unloading.

(c) Separate unloading pumps and pipelines are provided and used only for the unloading of the condensed, partially crystallized whey. Such pumps and pipelines shall be cleaned and sanitized as a separate cleaning circuit.

(11) The design and operation of pasteurization equipment and all appurtenances thereto shall comply with the applicable standards, specifications, and operational procedures of this act.

History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

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288.700 Manufacturing milk into dairy product; duties of plant owner or operator.

Sec. 140.

A person who owns or operates a plant receiving milk for manufacturing into a dairy product shall do each of the following:

(a) Maintain premises in a clean and orderly condition.

(b) Prevent the emission of an odor, smoke, or pollutant within the plant that may adulterate or negatively impact the quality of the milk or dairy products, as determined by the department.

(c) Construct plant driveways and adjacent vehicular traffic areas using concrete, asphalt, or other material approved by the department for minimizing dust and mud and maintain those sites in good repair.

(d) Construct a drainage system that provides for rapid, nonhazardous water drainage from the plant, driveways, adjacent traffic areas, and surface water sites located on plant property, in a manner that prevents the development of a nuisance.

(e) Ensure that each plant structure is of sound construction and kept in good repair to prevent the entering or harboring of rodents, birds, insects, vermin, dogs, and cats.

(f) Ensure that all exterior wall openings for pipes are effectively sealed around the pipes or fitted with tight metal collars.

(g) Ensure that all openings to the outdoors, including doors, windows, skylights, and transoms, are effectively maintained and protected or screened against the entrance of insects, rodents, birds, dust, and dirt. On new construction, window sills should be slanted downward at a 45-degree angle.

(h) Ensure that all exterior doors fit properly and that all hinged, exterior screen doors open outward.

(i) Ensure that all conveyor and other exterior openings are effectively maintained and protected by the use of doors, screens, flaps, fans, or tunnels to prevent the entrance of insects, rodents, birds, dust, and dirt.

(j) Ensure that outside openings for sanitary pipelines are covered when not in use.

(k) Ensure that wall, ceiling, partition, and post surfaces of each room in which a milk or dairy product is stored, or in which a dairy utensil is washed or stored, are smoothly finished in a light colored material impervious to moisture.

(l) Refinish a surface described in subdivision (k) as frequently as necessary to maintain a smooth finish.

(m) Ensure that the floor of each room in which a milk or dairy product is processed, manufactured, packaged, handled or stored, or in which a dairy utensil is washed or stored, is each of the following:

(i) Except as provided in subdivision (n), constructed of an impervious material approved by the department.

(ii) Maintained in good repair.

(iii) Graded to prevent the forming of standing water or milk.

(iv) Equipped with drains containing properly constructed and maintained traps and designed to prevent sewage backup into drain lines and the floor of the plant.

(n) Store new containers, supplies, and certain packaged products in a room or rooms with floors described in subdivision (m) or, upon department approval, in a room or rooms with a clean, smooth wood floor.

(o) Equip the plant with adequate and well-distributed lighting of at least 50 foot-candles where dairy products are graded or examined for condition and quality such as a can milk receiving room dumping area; 20 foot-candles at working surfaces in rooms for manufacturing, processing, or packaging of dairy products or for washing of equipment and utensils; 5 foot-candles in all other rooms, including storage rooms and coolers; or as specified by the director. Light intensity shall be measured at a distance of 30 inches from the floor with the use of a light meter.

(p) Protect from potential broken glass contamination all milk, dairy products, or dairy product ingredients located beneath a suspended lightbulb, fixture, window, or other glass.

(q) Ensure that each room and compartment has adequate heating, air-conditioning, and ventilation to maintain sanitary conditions and provide exhaust or inlet fans, vents, hoods, and temperature and humidity control facilities as needed to minimize or eliminate undesirable room temperatures, odors, moisture, condensation, or mold.

(r) Install adequate air filtering devices on air inlet fans to prevent the entrance of dirt and dust and ensure that each exhaust outlet is screened or provided with self-closing louvers to prevent the entrance of insects when not in use.

(s) Clean and maintain in good repair each ventilation system.

(t) Ensure that each room and compartment in which a raw dairy material, packaging material, ingredient supplies, or dairy product is manufactured, handled, packaged, or stored is designed, constructed, and maintained to assure a stable and appropriate temperature and clean operating conditions.

(u) Separate a processing room from a bulk milk receiving room by walls or partitions and a solid, tight-fitting, self-closing door.

(v) Keep processing rooms free from equipment not regularly used.

(w) Maintain coolers and freezers containing milk or dairy products as follows:

(i) At temperature and humidity levels that protect cooler or freezer contents and minimize mold growth on or within the cooler or freezer.

(ii) In a condition that protects cooler or freezer contents from rodents, insects, and vermin.

(iii) With shelves that are clean and dry.

(iv) With equipment for the collection and disposal of condensate.

(x) Maintain a supply room used for the storing of packaging materials and miscellaneous ingredients in a clean, dry condition, free from insects, rodents, and mold, and maintained in good repair.

(y) Protect items stored in a supply room from dust, dirt, or other extraneous matter and arrange those items on racks, shelves, or pallets to permit cleaning and inspection of the room and access to the items.

(z) Label, segregate, and store insecticides, rodenticides, cleaning compounds, and other nonfood products in a separate supply room or cabinet away from milk, dairy products, ingredients, or packaging supplies.

(aa) Separate a boiler room and a shop room from other rooms where milk and dairy products are processed, packaged, handled, or stored and keep a boiler room and a shop room orderly and reasonably clean.

(bb) Maintain conveniently located and adequate toilet facilities in the processing plant that comply with the following:

(i) Are not open directly into any room in which milk or dairy products are processed, packaged, or stored.

(ii) Have doors that are self-closing and ventilation provided by mechanical means or screened openings to the outside air.

(iii) Have fixtures that are kept clean and in good repair.

(cc) Furnish each employee with a locker or other suitable facility that is kept clean and orderly.

(dd) Conspicuously post signs in each toilet and locker room directing employees to wash their hands before returning to work.

(ee) Maintain and adequately equip a laboratory consistent with the size and type of plant and the volume of dairy products manufactured and staff that laboratory with personnel qualified and trained for quality control and analytical testing.

(ff) Maintain a central laboratory serving more than 1 plant only if that laboratory is approved by the department and is conveniently located to the dairy plants.

(gg) Provide adequate sanitary starter facilities for the handling of starter cultures.

(hh) Provide an adequate supply of both hot and cold water of safe and sanitary quality, protected against contamination and pollution, with adequate facilities for proper distribution of water throughout the plant. Upon department approval, water from other facilities may be used for boiler feed water and condenser water if water lines are completely separated from the plant water supply and the equipment constructed and controlled to preclude contamination of product contact surfaces.

(ii) Prevent any cross-connection between safe water supply and either an unsafe or questionable water supply or another source through which contamination of the safe water supply is possible.

(jj) Make an examination of the sanitary water supply and recirculated product cooling mediums at least every 6

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months or as often as necessary to determine purity and suitability for use in manufacturing dairy product systems. Such tests shall be made and approved by the department except for supplies that are regularly tested for purity and bacteriological quality. The most recent results of all water and cooling medium tests shall be kept on file at the plant for which the test was performed.

(kk) Ensure that the location, construction, and operation of a well complies with the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

(ll) Provide conveniently located drinking water facilities of a sanitary type in the plant.

(mm) Provide convenient hand-washing facilities, including hot and cold running water, soap or other detergents, sanitary single-service towels or air dryers, and covered trash containers for used towels or other wastes and locate those facilities in or adjacent to toilet and dressing rooms and convenient to the areas where milk and dairy products are handled, processed, or stored or where equipment is cleaned, sanitized, and stored.

(nn) Prohibit hand-washing in vats used for the cleaning of equipment or utensils.

(oo) Supply steam in sufficient volume and pressure for satisfactory operation of each applicable piece of equipment and ensure each of the following:

(i) That culinary steam used in direct contact with milk or dairy products complies with sanitary standards and is free from harmful substances or extraneous material.

(ii) That only nontoxic boiler compounds are used.

(iii) That steam traps, strainers, and condensate traps are used as necessary to ensure a safe steam supply.

(pp) Ensure that air under pressure that comes in contact with milk or dairy products or any product contact surface complies with sanitary standards and ensure that the air under pressure at the point of application is free from volatile substances, which may impart any flavor or odor to the products, and extraneous or harmful substances.

(qq) Properly dispose of wastes from the plant and premises and ensure that the plant sewer system has sufficient capacity to readily remove all wastes from the various processing and plant operations so as not to contaminate products or equipment or create a nuisance or public health hazard.

(rr) Ensure that containers used for the collection and holding of wastes are constructed of metal, plastic, or other equally impervious material and kept covered with tight-fitting lids and ensure that solid wastes are disposed of regularly and the containers and surroundings kept reasonably clean.

(ss) In accordance with department policy, periodically inspect and analyze dairy products being processed at the plant during each process.

(tt) Submit detailed plans to the department for approval before commencing new construction, remodeling, or equipment changes. Plans for new construction or remodeling shall include a plan that provides for operational or physical isolation of the milk plant from sources of potential product contamination caused by animal production facilities located in close proximity to the milk plant. Retail or public viewing areas shall be separated from processing areas by a solid floor-to-ceiling partition, except that other equally effective means of protection may be used, as approved by the director.

(uu) Provide adequate electrical power for on-demand support of lighting, cooling, heating, agitation, and ventilation systems.

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History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

288.701 Manufacturing milk into dairy product; additional duties of plant owner or operator.

Sec. 141.

A person who owns or operates a plant receiving milk for manufacturing into a dairy product shall do all of the following:

(a) Ensure that the equipment and utensils used for the processing of milk and dairy products are constructed to be readily demountable when the department determines necessary for cleaning and sanitizing.

(b) Ensure that the product contact surfaces of all equipment and utensils, including holding tanks, pasteurizers, coolers, vats, agitators, pumps, sanitary piping and fittings, and any specialized equipment, are constructed of stainless steel or other equally corrosion-resistant material meeting various sanitary standards for fabrication of dairy equipment.

(c) Ensure that nonmetallic parts having product contact surfaces meet sanitary standards.

(d) Ensure that all equipment and piping is designed and installed to be easily accessible for cleaning, kept in good repair, and free from cracks and corroded surfaces.

(e) Ensure that new or rearranged equipment is kept away from any wall or spaced in a manner that facilitates

proper cleaning and good housekeeping.

(f) Ensure that all parts or interior surfaces of equipment, pipes not CIP cleaned, or fittings, including valves and connections, are accessible for inspection and meet sanitary standards.

(g) Ensure that all new or replacement milk and dairy products pumps meet sanitary standards.

(h) Ensure that all CIP systems comply with sanitary standards.

(i) Ensure that weigh cans and receiving tanks meet sanitary standards established or approved by the department, are easily accessible for interior or exterior cleaning, and are elevated above the floor and protected sufficiently with the necessary covers to prevent contamination from splash, condensate, and drippage.

(j) Ensure that each can washer has sufficient capacity and ability to discharge a clean, dry can and cover and is kept properly timed in accordance with the instructions of the manufacturer.

(k) Ensure that each water and steam line supplying a can washer maintains a reasonably uniform pressure and if necessary is equipped with pressure-regulating valves.

(l) Ensure that product storage tanks or vats comply with all of the following:

(i) Meet sanitary standards.

(ii) Regarding the entire interior surface, agitator, and all appurtenances of each tank or vat, are accessible for thorough cleaning and inspection.

(iii) Regarding any opening at the top of each tank or vat, including the entrance of the shaft, is suitably protected against the entrance of dust, moisture, insects, oil, or grease.

(iv) Regarding sight glasses, if used, are sound, clear, and in good repair.

(v) Regarding a vat with hinged covers, is designed so that moisture or dust on the surface cannot enter the vat when the covers are raised.

(vi) Regarding storage tanks or vats equipped with air agitation, contain a properly installed air agitation system that meets sanitary standards.

(vii) Regarding storage tanks and vats intended to hold dairy products for longer than 8 hours, are equipped with adequate refrigeration or adequate insulation.

(viii) Are equipped with thermometers in good operating order. All raw milk storage tanks or silos installed after the effective date of this act that are not cleaned daily shall be provided with an approved recording thermometer and shall be cleaned and sanitized at least every 72 hours except as approved by the director in writing, on a case-by-case basis.

(m) Ensure that all product contact surfaces of separators are free from rust and pits and, if practicable, are of stainless steel or other equally noncorrosive metals.

(n) Ensure that each batch pasteurizer has a temperature indicator and recording device and conforms to sanitary standards and complies with the following, as applicable:

(i) Has an air-space indicating thermometer that is accurate within 1.0 degree Fahrenheit (0.5 degree Celsius) for the proper temperature range at least 1 inch above the surface of the products pasteurized in a vat to ensure that foam in the vat or air above the product pasteurized receives the minimum temperature treatment required by the department.

(ii) Has a recording thermometer that is accurate within 1.0 degree Fahrenheit (0.5 degree Celsius) for the proper temperature range.

(iii) Has surface coolers equipped with leak-proof gaskets and connections and with hinged or removable covers for the protection of the product and has edges of the covers that are designed to divert condensate on non-product-contact surfaces away from product contact surfaces. The use of surface coolers will be allowed only with specific written approval of the director on a case-by-case basis.

(iv) Use recording thermometers accurate within 2.0 degrees Fahrenheit (1.0 degree Celsius) to record holding and cooling time.

(v) Provides long-stem or equally acceptable indicating thermometers that are accurate within 0.5 degree Fahrenheit (0.25 degree Celsius) for the applicable temperature range, for checking the temperature of pasteurization and cooling of products in vats and checking the accuracy of recording thermometers.

(o) Ensure that high-temperature, short-time pasteurization equipment is tested and sealed by the department upon installation and quarterly thereafter and complies with sanitary standards and with the following, as applicable:

(i) In accordance with manufacturer recommendations, has in each high-temperature, short-time pasteurizer a short-stem or equally acceptable indicating thermometer that is accurate within 0.5 degree Fahrenheit (0.25 degree Celsius) for the applicable temperature range, to be used for checking the accuracy of recording thermometers.

(ii) Has in each storage tank for which the department requires a temperature reading an indicating thermometer that is accurate within 2.0 degrees Fahrenheit (1.0 degree Celsius).

(iii) Provides that all new or replacement plate-type heat exchangers meet sanitary standards, all gaskets are tight and kept in good repair, and plates are opened at sufficiently frequent intervals to determine if the equipment is clean and in satisfactory condition.

(p) Ensure compliance with each of the following:

(i) Internal return tubular heat exchangers meet sanitary standards.

(ii) Pumps used for milk and dairy products are of the sanitary type and constructed to meet sanitary standards.

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(iii) Unless a pump is specifically designed for effective cleaning in place, pumps are dismantled and cleaned after use.

(iv) Homogenizers and high-pressure pumps of the plunger type comply with sanitary standards.

(v) New equipment and replacements, including all plastic parts and rubber and rubberlike materials for parts and gaskets having product contact surfaces, meet sanitary standards.

(vi) A vacuum chamber, if used, is made of stainless steel or other equally noncorrosive material; is constructed to facilitate cleaning with all product contact surfaces accessible for inspection; is equipped with a vacuum breaker and a check valve at the product discharge line; uses only steam that meets the sanitary standards; regulates incoming steam supply by an automatic valve that cuts off the steam supply if the flow diversion valve of the high-temperature short-time pasteurizer is not in the forward flow position; and uses only condensers equipped with a water level control and an automatic safety shutoff valve.

(vii) Bulk storage and distribution equipment in dairy plants for handling liquid sweetening agents, edible oils, or other ingredients consists of suitable metals, alloys, or other materials that will withstand corrosive action by the ingredients and the equipment and ingredients are protected from contamination. Pipelines containing liquid sweetening agents and liquid chocolate remain flooded with the ingredient to prevent mold growth or may be dismantled and washed.

(q) Ensure that the plant is provided with adequate ventilation, that is acceptable to the director, to minimize possible product contamination with condensation, dust, and odors.

History: 2001, Act 267, Eff. Feb. 8, 2002

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288.702 Dairy plant employee; requirements.

Sec. 142.

A person employed by a dairy plant shall comply with all of the following, if applicable:

(a) Wash his or her hands before beginning work and upon returning to work after using toilet facilities, eating, smoking, or otherwise soiling his or her hands.

(b) Keep his or her hands clean and follow good hygienic practices while on duty.

(c) Refrain from using tobacco in any form in each room and compartment where any milk, dairy product, or other supplies are prepared, stored, or otherwise handled.

(d) Wear clean, white, or light-colored washable outer garments or apron and a cap or hairnet while engaged in receiving, testing, processing milk or dairy products, packaging, or handling dairy products.

(e) If afflicted with a communicable disease, not enter any room or compartment where milk and dairy products are prepared, manufactured, or otherwise handled.

(f) If he or she has a discharging or infected wound, sore, or lesion on hands, arms, or other exposed portion of the body, not work in any dairy processing rooms or in any capacity resulting in contact with the processing or handling of dairy products.

(g) Each employee whose work brings him or her in contact with the processing or handling of dairy products, containers, or equipment shall comply with requirements for employee health as specified under sections 2-201.11 to 2-201.15 of the food code adopted under the food law of 2000.

History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

288.703 Owner or operator of dairy plant; duties; package labels; advertising.

Sec. 143.

(1) A person who owns or operates a dairy plant shall do all of the following:

(a) Make available enclosed or covered facilities for washing and sanitizing of milk trucks, piping, and accessories at central locations or at sites that receive or ship milk or dairy products in milk transport tanks.

(b) Transfer milk under sanitary conditions from milk tank trucks through stainless steel piping or approved tubing and cap the sanitary piping and tubing when not in use.

(c) Hold and process milk under conditions and at temperatures that will avoid contamination and rapid

deterioration.

(d) Refrain from using drip milk from can washers or any other source for the manufacture of dairy products.

(e) Maintain milk in bulk storage tanks within the dairy plant in a manner that minimizes bacterial increase and, except when authorized by the department, maintain that milk at 45 degrees Fahrenheit (7 degrees Celsius) or lower until processing begins.

(f) Ensure that the bacteriological content of commingled raw milk in storage tanks is 1,000,000 or less total bacteria per milliliter (300,000 per milliliter or less total bacteria in raw milk for frozen desserts).

(g) Ensure the proper pasteurization of each particle of milk or dairy product.

(h) Test samples of milk or a dairy product for phosphatase by the method prescribed by the department.

(i) Take all necessary precautions to prevent contamination or adulteration of the milk or dairy products during manufacturing.

(j) Make available for department inspection all substances and ingredients used in the processing or manufacturing of any dairy product and ensure that those substances and ingredients are wholesome and practically free from impurities.

(k) Ensure that milk or dairy products comply with the standards in section 70, and standards listed for the milk products in title 21 of the code of federal regulations, if applicable.

(l) Maintain the equipment, sanitary piping, and utensils used in receiving and processing of the milk and maintain manufacturing and handling of the product in a sanitary condition.

(m) Ensure that sanitary seal assemblies are kept clean and are removable on all agitators, pumps, and vats and inspect those assemblies at regular intervals.

(n) Except as otherwise provided in this act, dismantle all equipment that is not designed for mechanical or clean-in-place cleaning, and thoroughly clean and sanitize all equipment after each day's use using cleaners, detergents, sanitizing agents, or other similar materials approved for dairy or food service use that will not contaminate or adversely affect the dairy products.

(o) Refrain from using steel wool or metal sponges in the cleaning of any dairy equipment or utensils.

(p) Immediately before use, subject all product contact surfaces to an effective sanitizing treatment except where dry cleaning is permitted.

(q) Store utensils and portable equipment used in processing and manufacturing operations above the floor in clean, dry locations and in a self-draining position on racks constructed of impervious corrosion-resistant material.

(r) Use CIP cleaning, including spray-ball systems, only on equipment and pipeline systems which have been designed and engineered for that purpose and employ careful attention to the proper procedures to assure satisfactory cleaning.

(s) Ensure that all CIP installations comply with sanitary standards and post and follow the established cleaning procedure.

(t) Following the circulation of the cleaning solution, thoroughly rinse and examine the equipment and lines for effectiveness of cleaning and ensure that all caps, ends, pumps, plates, and tee ends are opened or removed and brushed clean.

(u) Immediately before starting the product flow after the cleaning procedure described in subdivision (s), treat the product contact surfaces with an approved sanitizer.

(v) Clean, sanitize, and dry milk cans and lids before returning to producers and inspect, repair, or replace cans and lids to substantially exclude from use cans and lids showing open seams, cracks, rust, milkstone, or any unsanitary condition.

(w) Maintain washers in a clean and satisfactory operating condition and keep each washer free from accumulation of scale or debris that may adversely affect the efficiency of the washer.

(x) For all newly licensed or newly or extensively remodeled facilities, provide a covered or enclosed receiving, washing, and sanitizing facility at each site that receives or ships milk or dairy products in milk tank trucks, or provide means to protect the milk during the sampling and transferring process that are acceptable to the director. The dairy plant is not required to provide milk tank truck wash facilities if milk tank trucks are cleaned and sanitized at another approved facility.

(y) Clean and sanitize milk tank trucks, sanitary piping, fittings, and pumps at least once each day after use and, if those items are not to be used immediately after the emptying of a load of milk, promptly wash those items after use and give bactericidal treatment immediately before use.

(z) Identify each tank that is washed and sanitized by attaching a tag to the outlet valve, bearing all of the following information:

(i) Plant and specific location where cleaned.

(ii) Date and time of washing and sanitizing and identification number of the tank.

(iii) The name of each person who washed and name of each person who sanitized the tank.

(aa) Maintain on the tank the tag attached pursuant to subdivision (z) until the tank is again washed and sanitized and ensure the receiving plant retains the tag for at least 15 days or as the department may otherwise direct.

(bb) Wash all windows, glass, partitions, skylights, walls, ceilings, and doors as often as necessary to keep them clean and replace cracked or broken glass promptly.

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(cc) Wipe or vacuum shelves and ledges as often as necessary to keep them free from dust and debris and properly dispose of the material picked up by a vacuum cleaner to destroy any insect that may be present.

(dd) In addition to any commercial pest control service, if one is utilized, designate an employee to perform a regularly scheduled insect and rodent control program.

(ee) Properly label, handle, store, and use poisonous substances, insecticides, and rodenticides in such a manner as not to create a public health hazard.

(ff) Maintain plant records, make those records available at all reasonable times for department inspection, and, in accordance with each of the following, send producer quality tests contained in those records to the department within 10 days of the completion of those tests:

(i) Retain for 12 months sediment, temperature, drug residue, somatic cell, and bacterial test results on raw milk from each producer.

(ii) Retain for a period of 12 months routine test results.

(iii) Retain for 12 months retest results, if an initial test places the milk producer in permit suspension status.

(iv) Retain for 12 months rejections of raw milk over the no. 3 sediment standard for quality as established by the United States department of agriculture.

(v) Retain for 6 months pasteurization recorder charts.

(vi) Retain for at least 6 months CIP recording charts.

(vii) Retain the most recent water sample and recirculated cooling medium test results for at least 12 months.

(gg) Package milk and dairy products in department-approved containers and packaging materials that do or are each of the following:

(i) Cover and protect the quality of the contents during storage and handling under normal conditions.

(ii) As uniform in weight and shape within each product size or style as is practical.

(iii) Provide low permeability to air and vapor to prevent the formation of mold growth and surface oxidation.

(iv) Contain a wrapper resistant to puncturing, tearing, cracking, or breaking under normal conditions of handling, shipping, and storage.

(v) Sealed in conformity with the instructions of the manufacturer.

(hh) Conduct the packaging of each dairy product or the cutting and repackaging of each dairy product under sanitary conditions prescribed by the department and ensure that each packaging room, item of equipment, and packaging material is practically free from mold and bacterial contamination by testing the level of contamination in a manner approved by the department.

(ii) Dry store a product requiring dry storage at least 18 inches from any wall in an aisle, row, or section and lot in an orderly manner rendering the product easily accessible for inspection.

(jj) Regularly clean each room used for product storage and ensure that each stored product is free from any other foreign products, mold, absorbed odors, or vermin or insect infestation.

(kk) Maintain control of humidity and temperature in each storage room at all times to prevent conditions detrimental to a stored product and container.

(ll) Store a finished product requiring refrigeration on shelves, dunnage, or pallets at a temperature that will best maintain the initial quality of the product and ensure that the product is not exposed to any substance from which the product may absorb a foreign odor or be contaminated by drippage or condensation.

(mm) Purchase and store caps, parchment paper, wrappers, liners, gaskets, and single-service sticks, spoons, covers, and containers only in sanitary tubes, wrappings, or cartons that are kept in a clean, dry place until used and handled in a sanitary manner.

(nn) Packaged fluid dairy products that exceed the sell-by date shall not be reused in any dairy products regulated by this act or the grade A milk law of 2001 unless the department approves a protocol for such reprocessing. The protocol shall include consideration of storage temperatures, bacterial counts, age past sell-by date, sight and smell grading qualities, added ingredients, and any other factors considered critical by the director.

(oo) Packaged fluid dairy products that have left the control of a dairy plant but are returned or delivered to a dairy plant, commonly referred to as "returned products", shall not be reprocessed into milk or milk products regulated under this act or the grade A milk law of 2001.

(2) A person who owns or operates a dairy plant shall legibly mark or label each commercial bulk package containing dairy products manufactured under this act with the name of the product, quantity of contents, name and address of processor, manufacturer, or distributor, ingredients including known allergens, manufacturer lot number, plant code issued by the department identifying where the product was manufactured, and with any other identifying information required by the director. All manufactured dairy products shall meet any applicable definitions and standards of identity as promulgated under 21 CFR parts 131 to 135.

(3) Retail packages shall be labeled as specified in 21 CFR part 101, which is adopted by reference, and as specified under the food law of 2000.

(4) Commercial bulk packages of frozen desserts with removable lids shall be labeled on the body of the container.

(5) Bulk shipments of milk or dairy products shall be accompanied by a bill of lading containing the following information:

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(a) Shipper's name, address, and permit number.
(b) Permit identification of hauler if not an employee of the shipper.
(c) Point of origin of shipment.
(d) Tanker identity number.
(e) Name of product.
(f) Weight of product.
(g) Grade of product.
(h) Temperature of product.
(i) Date of shipment.
(j) Name of supervising regulatory agency at the point of origin.
(k) Whether the contents are raw, pasteurized, or, in the case of cream, lowfat, or skim milk, whether it has been heat treated.
(l) Seal number on inlet and outlet.
(6) Cheese and cheese products that are unpasteurized shall be labeled according to the requirements of 21 CFR part 133 and this section.
(7) Milk and milk products shall be advertised as specified under the food law of 2000.

History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

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Article 15

288.710 Manufacturing dry milk products; duties of plant owner or operator.

Sec. 150.

A person who owns or operates a plant manufacturing, processing, or packaging instant nonfat dry milk, nonfat dry milk, dry whole milk, dry buttermilk, dry whey, or other dry milk products shall do all of the following:
(a) Ensure that each storage room for the dry storage of a product is all of the following:
(i) Adequate in size.
(ii) Maintained in good repair and kept clean, orderly, free from rodents, insects, and mold.
(iii) Adequately lighted and ventilated.
(iv) Free from structural defects and inaccessible areas which may harbor insects.
(b) Provide a separate room or area constructed in compliance with this section and comply with all of the following for filling bulk bins, drums, bags, or other bulk containers:
(i) Keep the number of control panels and switchboxes in the room or area to a minimum and mount each control panel a sufficient distance from walls mounted in a wall with tight fitting removable doors to facilitate cleaning.
(ii) Provide an exhaust system adequate to minimize the accumulation of product dust within the room or area.
(iii) If needed, provide and maintain a dust collector to keep roofs and outside areas free of dry product.
(iv) Keep only packaging materials that are used within a day's operation in the packaging area.
(v) Keep packaging materials on metal racks or tables at least 6 inches above the floor and prohibit the presence of unnecessary fixtures, equipment, or areas of inaccessible space which may collect dust and harbor insects in the packaging room.
(c) Provide either of the following:
(i) A separate room for the transfer of bulk dry milk products from bags, bins, or drums to hoppers and conveyors leading to fillers that meets the requirements for construction and facilities of a bulk packaging plant.
(ii) An area or facility for the transfer of dry milk products from portable bulk bins if gasketed surfaces or direct connections are present and substantially eliminate the escape of product into the area.
(d) If applicable, provide a separate room for the filling of small packages that meets the same requirements for construction and facilities of a bulk packaging plant.
(e) Ensure that each preheater is of stainless steel or other equally corrosion resistant material and is cleanable, accessible for inspection, and equipped with suitable automatic temperature controls.
(f) Ensure that each hotwell is enclosed or covered and equipped with indicating thermometers either within the hotwell or in the hot milk inlet line to the hotwell, and ensure that a hotwell used for holding high heat products has a recorder.
(g) Equip each open-type evaporator or vacuum pan with an automatic condenser water level control, barometric leg, or ensure that the evaporator or pan is constructed to prevent water from entering the product and

meets sanitary standards.

(h) If surge tanks are used for hot milk and temperatures of product including foam being held in the surge tank during processing is not maintained at a minimum of 145°F (63°C), install 2 or more surge tanks with connections to permit flushing and cleaning during operation and flush and clean each tank at least once every 4 hours during operation to prevent the buildup of bacterial levels or toxins.

(i) Provide surge tank covers easily removable for cleaning and use a surge tank cover at all times a surge tank is in use.

(j) Provide high pressure lines approved by the department that may be cleaned in place and are of such construction that dead-ends, valves, and high pressure pumps can be dismantled for hand cleaning.

(k) Provide spray dryers of continuous discharge type that have all of the following:

(i) Product contact surfaces of stainless steel or other equally corrosion resistant material.

(ii) Joints and seams on the product contact surfaces that are welded and ground smooth.

(iii) A design that facilitates ease in cleaning and inspection.

(iv) Sight glasses or ports of sufficient size located at strategic positions.

(v) Air intake filters and air intake and exhaust recording thermometers.

(vi) A filter system consisting of filtering media or devices that will effectively, and in accordance with good manufacturing practices, prevent the entrance of foreign substances into the drying chamber.

(l) Clean the filtering system and replace component parts of a dryer as often as necessary to maintain a clean and adequate air supply and take precautions to assure complete combustion in gas fired dryers.

(m) Ensure that air is drawn into the dryer from sources free from odors and smoke, dust, or dirt.

(n) Ensure that the drums of a roller dryer are smooth, readily cleanable, and free of pits and rust.

(o) Maintain dryer knives in a manner that prevents scoring of the dryer drums.

(p) Ensure that a dryer has each of the following:

(i) End boards that are readily cleanable, have an impervious surface, and a means of adjustment to prevent leakage and accumulation of milk solids.

(ii) A stack, hood, the drip pan inside of the hood, and related shields constructed of stainless steel and readily cleanable.

(iii) A lower edge of the hood constructed to prevent condensate from entering the product zone.

(iv) A hood located in compliance with department guidelines.

(v) A stack that remains closed when the dryer is not in operation and that removes all vapors when the dryer is in operation.

(vi) Augers of stainless steel or of material approved by the department and that are readily cleanable.

(vii) Auger troughs and related shields of stainless steel or of other equally acceptable materials approved by the department that are readily cleanable.

(q) Provide a filtering system approved by the department to prevent dust, dirt, and all air entering the dryer from entering the drying room.

(r) Clean the filtering system and replace component parts as often as necessary to maintain a clean and adequate air supply.

(s) Make all dryer adjustments and ensure that the dryer is operating normally before collecting food grade powder from the dryer.

(t) Ensure that collectors are made of stainless steel or equally noncorrosive material and constructed to facilitate cleaning and inspection.

(u) Ensure that filter sack collectors, if used, are in good condition and that the system is constructed to render all parts accessible for cleaning and inspection.

(v) Ensure that conveyors are of stainless steel or equally corrosion resistant material and constructed to facilitate thorough cleaning and inspection.

(w) Provide cooling equipment with sufficient capacity to cool the product to 110°F (43.3°C) or lower immediately after the product's removal from dryer and prior to packaging.

(x) If bulk bins are used, cool the product to at least 90°F (32.2°C) and no more than 110°F (43.3°C).

(y) Provide a suitable dry air supply with effective filtering when air cooling and conveying is used.

(z) Ensure that all special equipment, including instantizing systems, flakers, pulverizers, and hammer mills used to process dry milk products are of sanitary construction and that all parts are accessible for cleaning and inspection.

(aa) Ensure that all newly installed sifters used for dry milk and dry milk products meet standards established or approved by the department and that all other sifters are constructed of stainless steel or other equally noncorrosive material and are of sanitary construction and accessible for cleaning and inspection.

(bb) Ensure that the mesh sizes of sifter screens used for various dry milk products are those recommended in sanitary standards.

(cc) Ensure that bulk bins are constructed of stainless steel, aluminum, or other equally corrosion resistant materials, free from cracks and seams, and have an interior surface and all product contact surfaces that are smooth and easily cleanable.

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(dd) If automatic sampling devices are used, ensure that they are constructed in a manner that prevents contamination of the product with all parts readily accessible for cleaning.

(ee) Ensure that the product contact surfaces of dump hoppers, screens, mixers, and conveyors used for transferring dry products from bulk containers to fillers for small packages or containers are of stainless steel or equally corrosion resistant material designed to prevent contamination and have all parts accessible for cleaning.

(ff) Ensure that a dump hopper is at a height above floor level to prevent foreign material or spilled product from entering the hopper.

(gg) Ensure that all filling and packaging equipment is of sanitary construction and all parts, including valves and filler heads, are accessible for cleaning.

(hh) Ensure that each plant handling dry milk products is equipped with a heavy duty industrial vacuum cleaner and establish a vacuuming schedule approved by the department.

(ii) Provide persons with clean clothing and shoe covers exclusively for the purpose of cleaning the interior of the dryer when it is necessary to enter the dryer to perform the cleaning operation.

(jj) Pasteurize all milk, buttermilk, and whey used in the manufacture of dry milk products at the plant where dried, except that condensed whey and acidified buttermilk containing 40% or more solids may be transported to another plant for drying without repasteurization if it is transported in a milk tank truck dedicated to hauling pasteurized product.

(kk) Pasteurize milk, dairy product blends, or skim milk to be used in the manufacture of dry milk or dry milk blends prior to condensing using the temperature and time standards in section 137. Dry milk blends shall be pasteurized at temperature and time standards approved for equivalent solids and fat content dairy products.

History: 2001, Act 267, Eff. Feb. 8, 2002

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288.711 Condensed products; temperature; use of surge, balance, or storage tank.

Sec. 151.

(1) A person may transport to a drying plant condensed skim made from pasteurized skim milk. Condensed skim shall be effectively repasteurized at the drying plant, before drying, at not less than 166°F (75°C) for 15 seconds or the equivalent period in bacterial destruction approved by the department.

(2) A person shall pasteurize all buttermilk or substance from which the cream is derived before condensing at a temperature of 161 °F (72°C) for 15 seconds or the equivalent period in bacterial destruction approved by the department.

(3) A person shall pasteurize all cheese whey or milk from which the cheese whey is derived before condensing at a temperature of 161 °F (72°C) for 15 seconds or the equivalent period in bacterial destruction approved by the department.

(4) A person shall use surge tanks or balance tanks between evaporators and a dryer only to hold the minimum amount of condensed product necessary for a uniform flow to the dryers and shall either ensure each tank holds the condensed product at temperatures specified in section 70 or completely empty and wash each tank after each 4 hours of operation or less. In either case, the person shall provide alternate tanks to permit continuous operation during washing of tanks.

(5) Production of a condensed product that exceeds the amount a dryer will take continuously from pans may be bypassed through a cooler into a storage tank at temperatures specified in section 70 and held at that temperature until a dryer is available.

(6) A person shall make product cut-off points at least every 24 hours and completely empty, wash, and sanitize a storage tank before reusing the tank.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.712 Dry products.

Sec. 152.

(1) A person shall operate a dryer at not more than the manufacturer's recommended capacity for the highest

quality dry product and may remodel or redesign a dryer after installation upon department approval. A person shall remove dry products from the drying chamber upon completion of each drying cycle.

(2) Before packaging and immediately following removal of a dry product from the drying chamber, a person shall cool the dry product to a temperature not exceeding 110°F (43.3°C).

(3) A person who packages a dry milk product shall ensure that each package or container used for the packaging of a dry milk product is of a clean, sound, commercially accepted material that will protect the packaged contents to the department's satisfaction. A dry milk product packager shall not package a dry milk product in a container previously used for nonfood items or food deleterious to the dairy product.

(4) A person who packages dry milk shall ensure all of the following:

(a) That empty containers are protected at all times from possible contamination.

(b) That a lined container is not lined more than 1 hour before the container is filled unless it is provided adequate protection from contamination.

(c) That precaution is taken during the filling operation to adequately minimize product dust and spillage.

(d) That, when necessary, a mechanical shaker is provided.

(e) That the tapping or pounding of containers does not occur.

(f) That a container is closed immediately after filling.

(g) That a container's exterior is vacuumed or brushed when necessary to render it practically free of product remnants before that container is removed from the filling site.

(h) That each dryer, conveyor, sifter, and storage bin is clean and maintained in a sanitary condition.

(i) That in addition to a commercial pest control service, if any, a person designated by the packager implements a regularly scheduled insect and rodent control program approved by the department.

History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

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288.713 Dry milk product repackaging operator; duties.

Sec. 153.

(1) A person conducting a dry milk product repackaging operation shall do all of the following:

(a) Ensure that repackaging occurs in a sanitary manner and take all precautions to prevent contamination and minimize dust.

(b) Ensure that all exterior surfaces of each individual container are practically free of product before the container is wrapped or packaged in shipping containers.

(c) Keep the floor of each packaging site free of dust accumulation, waste, cartons, liners, or other refuse.

(d) Vacuum conveyors, packaging, and carton making equipment throughout each packaging day to prevent the accumulation of dust.

(e) Prohibit bottles or glass material of any kind in the repackaging or hopper room.

(f) Ensure that the inlet openings of all hoppers and bins are of a size approved by the department, screened, and placed at least 6 inches above the floor level.

(g) Clean the packaging site and all packaging equipment as often as necessary to maintain a sanitary operation and thoroughly examine and clean points of equipment where residues of the dry product may accumulate.

(h) Thoroughly clean windows, doors, walls, light fixtures, and ledges of the packaging site as frequently as necessary to maintain department standards of cleanliness and sanitation.

(i) Identify and dispose of waste dry milk products at the fillers in a manner that ensures that the waste dry milk product is not used for human consumption.

(2) A person packaging a dry milk product shall do all of the following:

(a) Store or arrange the packaged dry milk product in aisles, rows, or sections and lots at least 18 inches from any wall and in an orderly manner that allows easy access for inspection or for cleaning of the site.

(b) Place all bags and small containers of product on pallets elevated approximately 6 inches from the floor.

(c) Keep the storage site clean and dry and all openings to the storage site protected against insects and rodents.

(d) Arrange all supplies on dunnage or pallets in an orderly manner for accessibility and cleaning of the storage site.

(e) Keep supplies enclosed in their original wrapping material until used.

(f) Keep supplies removed from their original containers in an enclosed metal cabinet, bin, or on shelving, and protected from powder and dust or other contamination.

(g) Vacuum the storage site as often as necessary to preserve cleanliness and order.

(h) Take all necessary precautions throughout the entire operation to prevent the adulteration of 1 product with

another.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.714 Dryers, conveyors, sifters, and storage bins; cleaning.

Sec. 154.

Dryers, conveyors, sifters, and storage bins shall be cleaned as often as is necessary to maintain such equipment in a clean and sanitary condition. The kind of cleaning procedure either wet or dry and the frequency of cleaning shall be based upon observation of actual operating results and conditions.

History: 2001, Act 267, Eff. Feb. 8, 2002

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288.715 Manufacturing, processing, and packaging butter; duties of plant owner or operator.

Sec. 155.

A person who owns or operates a plant manufacturing, processing, and packaging butter and related products shall comply with all of the following:

(a) Contain coolers or freezers, or both, that are each of the following:

(i) Equipped with facilities for maintaining proper temperature and humidity conditions, consistent with good manufacturing practices for the applicable product, to protect the quality and condition of the products during storage or processing.

(ii) Kept clean, orderly, and free from insects, rodents, and mold.

(iii) Maintained in good repair.

(iv) Adequately lighted.

(v) Capable of maintaining proper circulation of air at all times.

(vi) Constructed to allow thorough cleaning of the floors, walls, and ceilings.

(b) Contain properly constructed and sanitary churn rooms equipped to keep air free from odors and vapors and extreme temperatures by means of adequate ventilation and exhaust systems or air conditioning and heating facilities.

(c) Provide an atmosphere with no more than 10 mold colonies per cubic foot of air that is free of dust or other airborne contamination and maintained at a reasonable room temperature.

(d) If the plant has a continuous churn, ensure that all product contact surfaces of the churn are of noncorrosive material readily accessible for cleaning and inspection and all nonmetallic product contact surfaces comply with standards established or approved by the department.

(e) If the plant has a conventional churn, ensure that the churn has tight seals around each door and is constructed of aluminum, stainless steel, or an equally corrosion resistant material, free from cracks, in good repair, and all gasket material is fat resistant, nontoxic, and reasonably durable.

(f) Ensure that bulk butter trucks, boats, and packers are constructed of aluminum, stainless steel, or an equally corrosion resistant material, are free from cracks and seams, and have surfaces that are smooth and easily cleanable.

(g) Ensure that shavers, shredders, or melting machines used for the rapid melting of butter or frozen or plastic cream are constructed of stainless steel or an equally corrosion resistant material that is sanitary and readily cleanable.

(h) Ensure that all printing equipment is designed to readily allow cleaning of product contact surfaces and that all product contact surfaces except conveyors are constructed of aluminum, stainless steel, or equally corrosion resistant material that meets department standards.

(i) Ensure that conveyors are constructed of material that can be properly cleaned and maintained in a manner satisfactory to the department.

(j) Ensure that each brine tank used for the treating of parchment liners is constructed of noncorrosive material, has an adequate and safe means of heating the salt solution for the treatment of the liners, and has a satisfactory drainage outlet.

(k) Ensure that each bulk starter vat is both of the following:

(i) Constructed of stainless steel or an equally corrosion resistant material, in accordance with standards established or approved by the department.

(ii) In good repair, equipped with tight-fitting lids, and containing effective temperature controls.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.716 Sale of butter; requirements.

Sec. 156.

A person shall not sell, offer for sale or expose for sale, or have in possession with intent to sell any butter that does not conform to this act and shall not sell to the consumer any butter that has not been churned from wholesome cream and properly labeled.

History: 2001, Act 267, Eff. Feb. 8, 2002

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288.717 Butter; grading standards.

Sec. 157.

(1) Only a grader approved by the department shall grade butter.

(2) Standards for grading are those described in 7 C.F.R. 58.

(3) As used in this section, "grade" means the classification of butter by its examination for flavor, aroma, body and texture, color, salt, package, and such other factors as may be approved by the department.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.718 Butter; chlorinating facilities; contamination prevention; containers or packaging materials.

Sec. 158.

(1) The department may require a plant to provide chlorinating facilities for butter wash water.

(2) A person who owns or operates a plant shall take all necessary precautions to prevent contamination of products.

(3) In the packaging of butter and related products, a plant shall use commercially acceptable containers or packaging material that will protect the quality of the contents in a manner acceptable to the department. All cups or tubs containing 2 pounds or less shall have tops or covers that extend over the lip of the container to protect the product from contamination during subsequent handling.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.719 Parchment liners, wrappers, and other packaging material; protection against contamination.

Sec. 159.

A person who owns or operates a plant shall protect supplies of parchment liners, wrappers, and other packaging

material against dust, mold, and other possible contamination and do each of the following:

(a) Prior to use, completely immerse parchment liners or bulk butter packages in a boiling salt solution within a stainless steel or other equally noncorrosive material for not less than 30 minutes.

(b) Ensure that the solution described in subdivision (a) consists of at least 15 pounds of salt for every 85 pounds of water and is strengthened or changed as frequently as necessary to keep the solution full strength and in good condition.

(c) Treat or handle liners such as polyethylene and each lined butter container in such a manner as to prevent contamination of the liner prior to filling.

(d) Print and package consumer size containers of butter under sanitary conditions.

(e) Legibly mark commercial bulk shipping containers with the name of the product, net weight, name and address of manufacturer, processor or distributor, or an assigned plant identification number or any other identification that the department may require.

(f) Mark packages of plastic or frozen cream with the percent of milkfat.

(g) Except as provided in subdivisions (i) through (k), keep all products under refrigeration at temperatures of 45°F (4.7°C) or lower after packaging and until ready for shipment.

(h) Ensure that the products are not placed directly on floors or exposed to foreign odors or conditions such as drippage due to condensation which might cause package or product damage.

(i) If plastic cream or frozen cream is to be quick-frozen, place the product in quick freezer rooms immediately after packaging, and ensure rapid and complete freezing within 24 hours by doing all of the following:

(i) Pile or space the packages in a manner that allows air to freely circulate among and around the packages.

(ii) Maintain the rooms at -10°F (-23°C) or lower.

(iii) Equip each room to provide sufficient high-velocity air circulation for rapid freezing.

(iv) After the products have been completely frozen, retain them in the quick freezer or transfer them to a freezer storage room for continued storage.

(j) Maintain each freezer storage room at a temperature of 0°F (-18°C) or lower and ensure each freezer storage room has adequate air circulation.

(k) Place butter intended to be held more than 30 days in a freezer storage room immediately after packaging, and if that butter is not frozen before being placed in the freezer, arrange each unfrozen butter package in a manner that permits rapid freezing, and keep each package in that arrangement until frozen.

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History: 2001, Act 267, Eff. Feb. 8, 2002 ;-- Am. 2008, Act 147, Eff. June 27, 2008

Article 17

288.730 Cheese; duties of manufacturer or processor.

Sec. 170.

A person that manufactures or processes cheese shall do all of the following:

(a) Equip and maintain starter rooms or areas for the propagation and handling of starter cultures.

(b) Prevent contamination of starter cultures, starter rooms and equipment, and the air within each starter room.

(c) Ensure that the room in which cheese is manufactured is of adequate size with both of the following:

(i) Vats adequately spaced to permit movement around each vat.

(ii) Presses that are designed for proper cleaning and satisfactory working conditions.

(d) If cheese is to be coated or saturated with paraffin, provide a drying room of adequate size to accommodate the maximum amount of cheese that the plant can produce at its peak of operation and ensure that the drying room has adequate shelving and air circulation for proper drying and suitable temperature and humidity controls.

(e) For production of rind cheese, provide a separate room or compartment for paraffining and boxing the cheese and ensure that the room or compartment is of adequate size and the temperature maintained near the temperature of the drying room to avoid sweating of the cheese prior to paraffining.

(f) For rindless blocks, provide a suitable space for wrapping and boxing of the cheese and ensure that the area is free from dust, condensation, mold, or other conditions that may contaminate the surface of the cheese or contribute to an unsatisfactory packaging of the cheese.

(g) Maintain clean coolers or curing rooms where cheese is held for curing or storage and ensure each of the following:

(i) That the proper uniform temperature and humidity are kept to adequately protect the cheese.

(ii) That proper circulation of air is maintained at all times.

(iii) That the coolers or rooms are free from rodents, insects, and pests.

(iv) That shelves are kept clean and dry.

(h) If small packages of cheese are cut and wrapped, provide a separate room for the cleaning and preparation of the bulk cheese, a separate room for the cutting and wrapping operation and ensure that the rooms are well lighted, ventilated, provided with filtered air, and engineered to move air outward.

(i) If bulk starter vats are used, ensure that each is constructed of stainless steel or an equally corrosion resistant material, is in good repair, equipped with a tight-fitting lid, and contains adequate controls such as valves, indicating thermometers, and recording thermometers that meet the requirements for vat pasteurization unless pasteurization of the starter culture is completed prior to entry into the bulk starter vat.

(j) Ensure that each new bulk starter vat that is used is constructed according to standards established or approved by the department.

(k) Ensure that each vat used for making cheese is of metal construction and meets each of the following requirements:

(i) The vat has adequate jacket capacity for uniform heating.

(ii) The inner liner of the vat is a minimum 16-gauge stainless steel or other equally corrosion resistant material, properly pitched from side to center and from rear to front for adequate drainage.

(iii) The liner of the vat is smooth, free from excessive dents or creases, and extends over the edge of the outer jacket.

(iv) The outer jacket of the vat, if metal, is constructed of stainless steel or other material that can be kept clean and sanitary.

(v) The junction of the liner and outer jacket of the vat is constructed to prevent milk or cheese from entering the inner jacket.

(vi) The vat is equipped with a suitable sanitary outlet valve.

(vii) Each vat is equipped with effective valves that are properly maintained to control the application of heat to the vat.

(l) Ensure that mechanical agitators are of sanitary construction and contain each of the following:

(i) A carriage and track constructed to prevent the dropping of dirt or grease into the vat.

(ii) Metal blades, forks, or stirrers constructed of stainless steel or of material approved by the department and free from rough or sharp edges or any surface that may scratch the equipment or remove metal particles.

(m) Ensure that curd mill knives, hand rakes, shovels, paddles, strainers, and miscellaneous equipment are stainless steel or constructed of a material approved by the department.

(n) Ensure that the product contact surfaces of a curd mill, including the wires in curd knives, are stainless steel and that each piece of equipment is constructed so that it may be kept clean.

(o) Ensure that curd knives are kept tight and replaced when necessary.

(p) Ensure that each hoop, form, and follower is constructed of stainless steel or heavy tinned steel, and that a tinned hoop, form, or follower is kept tinned and free from rust.

(q) Ensure that each hoop, form, and follower is kept in good repair and that drums or other special forms used to press and store cheese are clean and sanitary.

(r) Ensure that each cheese press is constructed of stainless steel with all of the following:

(i) All joints welded and all surfaces, seams, and openings readily cleanable.

(ii) A continuous pressure device.

(iii) Press cloths maintained in good repair and in a sanitary condition.

(s) Ensure that single-service cheese press cloths are used only once.

(t) Ensure that the press used to heat seal the wrapper applied to rindless cheese shall have square interior corners and reasonably smooth interior surface and have controls that shall provide uniform pressure and heat equally to all surfaces.

(u) Ensure that each paraffin metal tank is adequate in size, has wood rather than metal racks to support cheese, and has heat controls and an indicating thermometer.

(v) Ensure that paraffin tank cheese wax is kept clean.

History: 2001, Act 267, Eff. Feb. 8, 2002

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288.731 Manufacturing or processing cheese; pasteurization temperature and time standards; equipment.

Sec. 171.

(1) A person that manufactures or processes cheese shall pasteurize milk to be used for making cheese or cheese

culture by subjecting every particle of the milk to a minimum temperature of 161°F (72°C) for not less than 15 seconds or to other pasteurization temperature and time standards listed in section 137, except as provided for in section 138. A person that manufactures or processes cheese shall equip high temperature short-time pasteurization units with the proper controls and equipment to assure pasteurization. Milk held more than 2 hours between time of receipt or pasteurization and culturing shall be cooled to 45°F (7°C) or lower, until the time of culturing.

(2) A person that manufactures or processes cheese and engages in vat pasteurization shall use only equipment meeting the requirements of sanitary standards.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.732 Cheese; additional duties of manufacturer or processor.

Sec. 172.

In addition to the requirements imposed under section 170, a person that manufactures or processes cheese shall do all of the following:

(a) Provide adequate sanitary facilities for the disposal of whey and take precautions to minimize flies, insects, and the development of objectionable odors at disposal sites.

(b) Handle whey or whey products intended for human food at all times in a sanitary manner in accordance with the procedures specified in this act for handling milk and dairy products.

(c) Conduct the packaging of rindless cheese or the cutting and repackaging of all styles of bulk cheese under rigid sanitary conditions and ensure that the atmosphere of the packaging rooms, the equipment, and the packaging material are free from mold and bacterial contamination.

(d) Legibly mark each bulk cheese with the name of the product, code or date of manufacture, name and address of manufacturer, and vat number or code number of the manufacturer.

(e) Legibly mark each consumer-sized container with the name and address of the manufacturer, packer, or distributor and legibly mark the net weight of the contents, the name of product, and any other information required by the department.

(f) Ensure that conveyors are constructed of material approved by the department and maintained in good repair.

(g) Ensure that the grinders or shredders used in the preparation of trimmed and cleaned natural cheese for cookers are adequate in size, with product contact surfaces of corrosion resistant material, and constructed to prevent contamination of the cheese and allow thorough cleaning of all parts and product contact surfaces.

(h) Ensure that each cooker is all of the following:

(i) Steam jacketed or of direct steam type.

(ii) Constructed of stainless steel or other equally corrosion resistant material with all product contact surfaces readily accessible for cleaning.

(iii) Equipped with an indicating thermometer.

(iv) Equipped with a temperature recording device.

(v) Equipped with a recording thermometer stem placed in the cooker if time charts satisfactory to the department are used or placed in the hotwell or filler hopper.

(i) Ensure either that steam check valves on direct steam type cookers are mounted flush with cooker wall, constructed of stainless steel, and designed to prevent the backup of product into the steam line or that each steam line is constructed of stainless steel pipes and fittings that can be readily cleaned.

(j) If direct steam is applied to the product, ensure that only culinary steam is used.

(k) Ensure each of the following:

(i) That except for sight ports, the hoppers of all fillers are covered.

(ii) That if the department determines necessary, the hopper has an agitator to prevent buildup on side walls.

(iii) That the filler valves and head are kept in good repair and capable of accurate measurements.

(iv) That natural cheese is cleaned free of all nonedible portions.

(v) That paraffin, wrappings, rind surface, mold, or unclean areas or any other part of natural cheese that is by department standards unwholesome or unappetizing is removed.

(vi) That each batch of cheese within a cooker, including optional ingredients, is thoroughly commingled and pasteurized at a temperature of at least 161°F (72°C) for not less than 30 seconds.

(vii) That cheese particles or ingredients do not enter the cooker batch after the cooker batch of cheese has reached the final heating temperature.

(viii) After holding for the required period of time, that the hot cheese is emptied from the cooker as quickly as possible.

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(ix) That containers either lined or unlined are assembled and stored in a sanitary manner to prevent contamination.

(x) That filler crews handle containers with extreme care and observance of personal cleanliness.

(xi) That preforming and assembling of pouch liners and containers are kept to a minimum and the supply rotated to limit the length of time a product is exposed to possible contamination prior to filling.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.733 Supplying processed cheese to filler or slice former; requirements.

Sec. 173.

Hot fluid cheese from cookers may be held in hotwells or hoppers to assure a constant and even supply of processed cheese to the filler or slice former. A person that manufactures or processes cheese shall ensure all of the following:

(a) That filler valves effectively measure the desired amount of product into a pouch or container in a sanitary manner and shall cut off sharply without drip or drag of cheese across the opening.

(b) That an effective system is used to maintain accurate and precise weight control.

(c) That damaged or unsatisfactory packages are removed from production and that cheese is, at the plant's option, salvaged into sanitary containers and added back to the cookers.

(d) That pouches, liners, or containers having product contact surfaces after filling are folded or closed and sealed in a sanitary manner approved by the department to prevent contamination.

(e) That, in addition to other required labeling, each container is coded in a manner as to be easily identified as to date of manufacture by lot or sublot number.

History: 2001, Act 267, Eff. Feb. 8, 2002

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288.734 Evaporated, condensed, or sterilized dairy products; systems and equipment requirements.

Sec. 174.

(1) A person that manufactures, processes, or packages evaporated, condensed, or sterilized dairy products shall ensure that the equipment and utensils used for processing and packaging evaporated, condensed, or sterilized dairy products comply with sections 135 through 143 and each of the following requirements:

(a) All equipment used in the removal of moisture from milk or dairy products for the purpose of concentrating the solids meets sanitary standards.

(b) Gravity and vacuum-type fillers are of sanitary design and, except as provided in subdivision (c), all product contact surfaces, if metal, are made of stainless steel or an equally corrosion resistant material approved by the department.

(c) Nonmetallic product contact surfaces meet standards established or approved by the department.

(d) Fillers are designed to prevent contamination of, or detraction from, the quality of the product being packaged.

(e) Batch or continuous in-container sterilizers are equipped with accurate temperature controls and effective valves for regulating the sterilization process and the equipment is maintained to assure control of the length of time of processing, and to minimize the number of damaged containers.

(2) If applicable, a person who owns or operates a plant described in section 140 or 141 shall use homogenizers to reduce the size of fat particles and to evenly disperse those particles in the product and ensure that each homogenizer meets sanitary standards.

(3) Pasteurization shall be performed by systems and equipment meeting the requirements identified in section 139.

(4) A person shall fill and hermetically seal containers with product in a sanitary manner, and ensure that each container does not contaminate or detract from the quality of the product.

(5) A person shall ensure that bulk containers or retail containers for unsterilized product meet department standards to protect a product in storage or transit. Each bulk container, including bulk tankers, shall be cleaned

and sanitized before filling and filled and closed in a sanitary manner.

(6) A previously sterilized product shall be filled under conditions which prevent contamination of the product by living organisms or spores. Prior to being filled, a container shall be sterilized and maintained in a sterile condition. A filled container shall be sealed in a manner that prevents contamination of the product.

(7) All sterilized or aseptically processed product must comply with the requirements set forth by the scheduled process and the food and drug administration under 21 C.F.R. part 113.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.735 Frozen dessert; pasteurization.

Sec. 175.

(1) A person who manufactures frozen desserts shall maintain and operate the plant with strict regard for the purity and wholesomeness of the frozen desserts produced.

(2) A frozen dessert shall be manufactured, processed, sold, offered for sale, or delivered only if it has been made from a mixture that has been properly pasteurized by heating every particle of the mixture pursuant to subsection (3)(a) or (b).

(3) A frozen dessert mixture, including sweetners, emulsifiers, and stabilizers, described in subsection (2) shall be pasteurized to either of the following:

(a) To a temperature and time standard listed in section 137, but not lower than 155°F (69°C) and holding at such temperature continuously for not less than 30 minutes and promptly cooling to a temperature of 45°F (7°C) or lower.

(b) To a temperature not lower than 175°F (80°C) for not less than 25 seconds or 180°F (83°C) for 15 seconds in equipment meeting the requirements of the department and those set forth in sanitary standards and promptly cooling to a temperature of 45°F (7°C) or lower.

(4) A frozen dessert mixture described in subsection (2) shall be pasteurized in equipment provided with an indicating thermometer and approved recording thermometer, the charts for which shall be dated and held for a period of at least 180 days. This subsection does not prohibit the use of another pasteurization process that has been recognized by the department to be equally efficient and that is approved by the department.

(5) All frozen dessert mixes shall be pasteurized at the final freezing location unless the pasteurized mix is packaged in approved single service containers of 5 gallons or less, or as approved by the director. Frozen dessert plants that transport pasteurized bulk mix in bulk milk tankers dedicated to hauling pasteurized products on the effective date of this act may continue this practice with the written approval of the director on a case-by-case basis.

History: 2001, Act 267, Eff. Feb. 8, 2002
Compiler's Notes: In subsection (3), "sweetners" evidently should read "sweeteners."

288.736 Equipment; compliance with sanitary standards.

Sec. 176.

A person shall ensure that all new equipment meets applicable sanitary standards. Equipment and utensils coming in contact with milk, dairy products, mix or frozen desserts, including sanitary pumps, piping, fittings, and connections, shall be constructed of stainless steel or other equally corrosion-resistant material. However, where the use of stainless steel is not practicable, or in old equipment, other metals properly coated or plated may be approved in writing by the director on a case-by-case basis. Nonmetallic parts having product contact surfaces shall be of material that meets sanitary standards.

History: 2001, Act 267, Eff. Feb. 8, 2002

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288.737 Frozen desserts; temperature of dairy products received in fluid form; rerun standards; packaging; labeling.

Sec. 177.

(1) A person shall ensure that milk, cream, and dairy products in fluid form received at a frozen dessert plant for use in mixes are immediately cooled to a temperature of 45°F (7°C) or less and maintained at that temperature until pasteurized. Mixes shall be assembled and pasteurized in a dairy plant.

(2) A person shall ensure that spilled frozen desserts and ingredients are discarded. Rerun shall be handled in sanitary containers properly covered and stored at or below 45°F (7°C) or shall be piped directly back to vats. Rerun which has been strained to remove nuts, fruits, or other ingredients shall be repasteurized and shall be used only as mix for products which contain the same ingredients. Frozen desserts that have been distributed shall not be returned to the manufacturer for repasteurization and processing. Flavoring and bulky ingredients may be added to mix after pasteurization.

(3) A person shall ensure that frozen desserts and mix are packaged in commercially acceptable containers and packaging material that will protect the quality of the contents in regular channels of trade. The packaging, cutting, molding, dispensing, and other handling or preparation of mix or frozen desserts and their ingredients shall be done in a sanitary manner. Plastic or rubber gloves shall be worn when handling frozen desserts for molding, cutting, or similar hand contact work.

(4) Frozen desserts shall be labeled as specified in section 143(2), (3), (4), (5), and (6). Bulk ice cream containers with removable lids, such as those used for hand dipping, shall be labeled on the body of the container.

History: 2001, Act 267, Eff. Feb. 8, 2002

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288.738 Nonconforming new frozen dessert or mix; submission of label for review and approval.

Sec. 178.

New frozen desserts not conforming to existing standards shall be manufactured in accordance with sanitation standards established in this act and shall also comply with the bacteria count standards, coliform determinations, and storage temperatures where applicable, set forth in section 70. A person, firm, or corporation, before manufacturing and marketing any frozen dessert or mix which varies from the standards set forth in this act, shall notify the department of its intent to manufacture or market a frozen dessert or mix and shall submit for review and approval a proposed copy of the label for the new frozen dessert or mix.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.739 Vehicle to transport mix, frozen desserts, and ingredients; construction and operation; cleaning.

Sec. 179.

A person shall ensure that a vehicle including a mobile frozen dessert plant used for the transportation of mix, frozen desserts, and their ingredients is constructed and operated so as to protect the contents from heat, sun, and contamination. The vehicle shall be kept clean, and no substance capable of contaminating mix, frozen desserts, and their ingredients shall be transported in the vehicle. Where applicable, a frozen dessert plant shall provide an area for unloading vehicles that can be maintained in a sanitary condition. This area should be surfaced with concrete or blacktop.

History: 2001, Act 267, Eff. Feb. 8, 2002

288.740 Mobile frozen dessert plant; requirements.

Sec. 180.

A person that owns or operates a mobile frozen dessert plant shall ensure all of the following:

(a) A mobile frozen dessert plant meets all requirements of this act exclusive of toilet facilities.

(b) A mobile frozen dessert plant has a potable water supply tank, of sufficient capacity, tilted toward a capped drain cock. The water inlet pipes shall be of removable flexible copper or other approved tubing with the nozzle for the hose connection capped and fully protected when not being used. A hose for connection to a potable water supply shall be provided and used exclusively for that purpose.

(c) A mobile frozen dessert plant has a suitable waste tank with a capacity at least equal to the water supply tank that is tilted toward a drain cock with an adequate method of gauging the contents. It shall be emptied and flushed as often as necessary at an approved location, in order to maintain sanitary conditions.

(d) A mobile frozen dessert plant has a refrigerated box of ample capacity for storage of the various ingredients carried that need refrigeration and constructed of noncorrosive material, the floor of which is pitched toward a drain. Temperature shall be maintained at 45°F (7°C) or lower in the refrigerated box, and it shall be equipped with an indicating thermometer.

(e) Mix to be frozen in a mobile frozen dessert plant is packaged in a single service container of 5 gallons or less at the place of manufacture.

(f) A mobile frozen dessert plant has a refrigerated syrup rail with a holding plate to maintain temperatures of 50°F (10 °C) or below.

(g) A mobile frozen dessert plant has a refuse can located within the mobile plant and a waste can or container for deposit of cups, papers, and other refuse by customers outside the mobile plant. Both shall be kept clean and so located as not to create a nuisance.

(h) Utensils, equipment, and multiuse containers in a mobile frozen dessert plant are washed and sanitized in the mobile plant after each day's use.

History: 2001, Act 267, Eff. Feb. 8, 2002

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