RAW MILK SECTIONS OF PART 2

2.3 (b) *PERMIT TO SELL RAW MILK*.

(1) Every person who sells, offers for sale or otherwise makes available raw milk for consumption by consumers shall hold a permit to sell raw milk issued by the commissioner. A person who holds a permit to sell raw milk may sell, offer for sale or otherwise make available raw milk only:

(i) directly to a consumer;

(ii) on the dairy farm where such raw milk is produced;

(iii) in a bottle or in a single service container mechanically filled and capped as set forth in this Part or in a container provided by the consumer filled in his presence; and

(iv) if at the point of sale a sign is conspicuously posted, easily capable of being read, from such point, stating: "NOTICE: Raw milk sold here. Raw milk does not provide the protection of pasteurization."

(2) A person who holds a permit to sell raw milk shall:

(i) ensure that the dairy farm at which the raw milk was produced is in substantial compliance with the provisions of this Part applicable to the production of Grade A prepasteurized milk;

(ii) sell, offer for sale or make available no raw milk when and as required in section 2.7(c) and(d) of this Part;

(iii) sell, offer for sale or make available no raw milk that exceeds the applicable temperature, drugs or abnormalities standard set forth in section 2.8 of this Part;

(iv) sell or offer for sale no raw milk that is in violation of any provision of this Title or of the Agriculture and Markets Law; and

(v) enroll in the Quality Milk Promotion Services when and/or as required by sections 2.7 and 2.60 of this Part.

§ 2.7 SAMPLING AND ANALYSIS OF PREPASTEURIZED MILK; requirements when prepasteurized milk fails to meet standards set forth in section 2.8 of this Part.

(a) A licensed technician who has been given a sample of prepasteurized milk or commingled milk to analyze shall promptly perform the appropriate test(s) at an officially designated laboratory and shall promptly notify the permit holder of the result of the test(s), in writing.

(b) *Sampling and analysis of prepasteurized milk and commingled milk.*

(1) The permit holder who controls the assembly of the milk shall ensure that a sample of prepasteurized milk is properly taken by a person licensed pursuant to Agriculture and Markets Law, section 57 each time prepasteurized milk is picked up from a dairy farm and that a sample of commingled milk is properly obtained at least once a month. At least once a month, an official sample of prepasteurized milk from each dairy farm and a sample of commingled milk shall be submitted to a licensed technician for analysis at an officially designated laboratory, to determine compliance with the standards set forth in section 2.8 of this Part. The licensed technician shall continuously maintain samples under adequate refrigeration and sanitary conditions until analyzed. Notwithstanding the foregoing, the permit holder shall ensure that a sample of commingled milk is properly obtained, for each load of milk shipped to a milk plant in a milk tank truck, and submitted to a licensed technician for analysis at an officially designated laboratory, to determine compliance with the drug standard set forth in section 2.8 of this Part. When a sample of commingled milk exceeds the drug standard set forth in this Part or is found to contain a drug at the non-actionable level, the samples from all dairy farms represented in the commingled sample shall be submitted to a licensed technician for analysis at an officially designated laboratory, to determine which sample(s) is/are in violation of such standard or which sample(s) contain(s) a drug at the non-actionable level. When a sample of commingled milk exceeds the drug standard set forth in this Part, the milk from which such sample was taken shall not be accepted or received.

(2) All sampling and analysis required to be made pursuant to this Part shall be made in compliance with the applicable provisions of Part 6 of this Title, Standard Methods for the Examination of Dairy Products and the PMO.

(c) *Requirements when prepasteurized milk or raw milk exceeds bacterial limit.*

(1) When an official sample of prepasteurized milk or raw milk has been analyzed and determined to exceed the bacterial limit set forth in section 2.8 of this Part,

the certified milk inspector or an employee of the Division of Milk Control in the case of a producer-dealer or raw milk producer, shall notify the dairy farmer, producer-dealer or raw milk producer, as the case may be, of the results of the analysis and shall inspect the dairy farm to determine the cause.

(2) Whenever two of a series of four consecutive official samples exceed the bacterial limit, another official sample of prepasteurized milk or raw milk, as the case may be, shall be taken from three to twenty-one days after notification and shall be submitted to a licensed technician for analysis at an officially designated laboratory, and the dairy farmer, producer-dealer or raw milk producer shall be informed by the certified milk inspector or by an employee of the Division of Milk Control, as applicable, that no prepasteurized milk or raw milk may be shipped, processed or sold if three of any series of five consecutive official samples exceed the bacterial limit.

(3) After the prepasteurized milk of a dairy farmer or producer-dealer is no longer prohibited from being shipped or processed, or after the raw milk of a raw milk producer is no longer prohibited from being sold, offered for sale or made available pursuant to the provisions of this section, four official samples of prepasteurized milk or raw milk from different milkings shall be taken within a five to twenty-one day period. No more than two official samples shall be taken during any one seven day period. Such official samples shall be submitted to a licensed technician for analysis at an officially designated laboratory. The official samples required to be taken pursuant to the provisions of this paragraph shall not be considered to be part of a prior series of samples.

(d) Requirements when prepasteurized milk or raw milk exceeds the somatic cells standard.

(1) When an official sample of prepasteurized milk or raw milk has been analyzed and determined to exceed the somatic cells standard set forth in section 2.8 of this Part, the certified milk inspector or an employee of the Division of Milk Control in the case of a producer-dealer or raw milk producer, shall notify the dairy farmer, producer-dealer or raw milk producer as the case may be, of the results of the analysis and another official sample of prepasteurized milk or raw milk shall be taken from five to twenty-one days after notification ("the official recheck sample") and submitted to a licensed technician for analysis at an officially designated laboratory.

(2) When an official recheck sample has been analyzed and determined to exceed the somatic cells standard, the certified milk inspector or employee of the Division of Milk Control, as applicable, shall notify the dairy farmer, producer-dealer or raw milk producer of the results of the analysis and inform him that he must, within ten days, enroll in the Quality Milk Promotion Services program ("QMPS"). The dairy farmer, producer-dealer or raw milk producer shall remain properly enrolled in the QMPS program for at least six months from the date of enrollment and until three of a series of four consecutive official samples are analyzed and determined to be in compliance with the somatic cells standard.

(3) Whenever two of a series of four consecutive official samples exceed the somatic cells standard, another official sample of prepasteurized milk or raw milk, as the case may be, shall be taken from five to twenty-one days after notification and shall be properly submitted to a licensed technician for analysis at an officially designated laboratory, and the dairy farmer, producer-dealer or raw milk producer shall be informed by the certified milk inspector or by an employee of the Division of Milk Control, as applicable, that no prepasteurized milk or raw milk may be shipped, processed or sold if three of any series of five consecutive samples exceed the somatic cells standard. The dairy farmer, producer-dealer or raw milk producer shall also be informed by the certified milk inspector or by an employee of the Division of Milk Control, as applicable, that he must, within ten days, enroll in the QMPS program and remain properly enrolled therein for at least six months and until three of a series of four consecutive official samples are analyzed and determined to be in compliance with the somatic cells standard.

(4) After the prepasteurized milk of a dairy farmer or producer-dealer is no longer prohibited from being shipped or processed, or after the raw milk of a raw milk producer is no longer prohibited from being sold, offered for sale or made available pursuant to the provisions of this section, four official samples of prepasteurized milk or raw milk from different milkings shall be taken within a five to twenty-one day period. No more than two samples shall be taken during any one seven day period. Such samples shall be submitted to a licensed technician for analysis at an approved laboratory. The samples required to be taken pursuant to the provisions of this paragraph shall not be considered to be part of a prior series of samples.

(e) ***Requirements when prepasteurized milk exceeds the drug standard.*** **When a sample of prepasteurized milk has been**

determined to exceed the drug standard set forth in section 2.8 of this Part, the certified milk inspector shall immediately notify the dairy farmer of the results of the analysis and shall inform him

(1) that no prepasteurized milk may be shipped until the milk no longer exceeds the drug standard and for a period of at least:

(i) two days from the date the prepasteurized milk was determined to exceed the drug standard if such excessive sample was the first excessive sample in a twelve month period; or

(ii) four days from the date the prepasteurized milk was determined to exceed the drug standard, if such excessive sample was the second or more excessive sample in a twelve month period; and

(2) that he shall immediately contact a licensed veterinarian, inform such licensed veterinarian that his milk has been found to contain a drug, meet with such licensed veterinarian as soon as practicable after contacting him, and in no event later than thirty days thereafter, and review with such licensed veterinarian the provisions of the Milk and Dairy Beef Residue Prevention Protocol. Immediately after such review, the dairy farmer shall sign the certificate at page 57 of the Protocol and retain it for at least two years. Notwithstanding the provisions of subparagraphs 1(i) and (ii) of this subdivision, prepasteurized milk that does not exceed the drug standard may be shipped if the dairy farmer pays a penalty to the permit holder who receives his milk, in an amount equal to the value of such prepasteurized milk at the applicable uniform price or, if there is no applicable uniform price, at the generally prevailing price.

§ 2.8 QUALITY STANDARDS

MILK AND MILK PRODUCTS

Prepasteurized milk for Grade A use	**Temperature.....**	**Cooled to 45ºF (7ºC) or less within two hours after milking, provided that the blend temperatures following subsequent milkings shall not exceed 50ºF (10ºC).**
	Bacterial limits..	**Individual producer milk not to exceed 100,000 per ml. prior to commingling with other producer milk. Not to exceed 300,000 per ml. as commingled milk prior to pasteurization.**
	Sediment.....	**Less than 1.5 mg. on individual producer milk; less than 1.0 mg. on commingled producer milk as determined by the provisions of 1 NYCRR Part 12.**
	Drugs.....	**Not to exceed the applicable standard or tolerance set forth in transmittals supplementing the PMO bearing identification numbers M-1-94-4, IMS-a-30, M-1-91-6, M-1-92-1, M-1-92-10, M-1-92-14, and M-a-86, more fully described in section 2.2(kk)(14), (15),(16),(17),(20),(21) and (22) of this Part.**
	Abnormalities.....	**Milk to have normal odor and appearance.**
	Somatic cells.....	**Not to exceed 1,000,000 per ml., except that after 7/1/93, not to exceed 750,000 per ml. for prepasteurized milk from cows.**

Prepasteurized milk for non-Grade A use	**Temperature.....**	**In cans, cooled to 55ºF (13ºC)or lower within 2 hours after milking and delivered to the plant at 60ºF (16ºC) or lower. In bulk, cooled to 45ºF (7ºC) or less within 2 hours provided that the blend temperatures following subsequent milkings shall not exceed 50ºF (10ºC).**
	Bacterial limits...	**Not to exceed 1,000,000 per ml. prior to commingling with other producer milk. Not to exceed 3,000,000 per ml. as commingled milk prior to pasteurization.**
	Drugs.....	**Not to exceed the applicable standard or tolerance set forth in transmittals supplementing the PMO bearing identification numbers M-1-94-4, IMS-a-30, M-1-91-6, M-1-92-1, M-1-92-10, M-1-92-14, and M-a-86 more fully-described in section 2.2(kk)(14),(15),(16), (17),(20),(21), and (22) of this Part.**

	Sediment.....	Less than 1.5 mg on individual producer milk; less than 1.0 mg on commingled producer milk as determined by the provisions of 1 NYCRR Part 12.
	Abnormalities.....	Has normal odor and appearance.
	Somatic cells.....	Not to exceed 1,000,000 per ml except that after 7/1/93, not to exceed 750,000 per ml. for prepasteurized milk from cows.
Pasteurized milk lowfat milk, skim milk, milk products, goat milk, goat milk products, sheep milk and sheep milk products, melloream, frozen desserts and frozen dessert mix	Temperature.....	Cooled to 45ºF (7ºC) or less and maintained thereat.
	Bacterial limits*..	20,000 per ml except with respect to frozen desserts, not to exceed 100,000 per ml.
	Coliform.....	Not to exceed 10 per ml. except with respect to frozen desserts, not to exceed 20 per ml.; provided, that in the case of bulk milk transport tank shipments, shall not exceed 100 per ml.

*Not applicable to cultured products.

	Phosphatase.....	Less than 1 microgram per ml. by the Scharer Rapid Method or equivalent.
	Drugs.....	Not to exceed the applicable standard or tolerance set forth in transmittals supplementing the PMO bearing identification numbers M-1-94-4, IMS-a-30, M-1-91-6, M-1-92-1, M-1-92-10, M-1-92-14, and M-a-86 more fully described in section 2.2(kk),(14),(15),(16),(17),(20),(21) and (22) of this Part.
Raw milk	Temperature.....	Cooled to 45ºF (7ºC).
	Bacterial limits...	30,000 per ml.
	Drugs.....	Not to exceed the applicable standard or tolerance set forth in transmittals supplementing the PMO bearing identification numbers M-1-94-4, IMS-a-30, M-1-91-6, M-1-92-1, M-1-92-10, M-1-92-14 and M-a-86, more fully-described in section 2.2(kk)(14),(15),(16),(17).(20),(21) and (22) of this Part.
	Sediment.....	Less than 1.5 mg as determined by the provisions of 1 NYCRR Part 12.
	Abnormalities.....	Milk to have normal odor and appearance.
	Somatic cells.....	Not to exceed 1,000,000 per ml except that after 7/1/93, not to exceed 750,000 per ml. for raw milk from cows.

Pasteurized cultured products	Temperature.....	Same as pasteurized milk.
	Coliform.....	Same as pasteurized milk.
	Phosphatase.....	Same as pasteurized milk.

Butter, 80% cream, plastic cream, mixtures of butterfat, sugar or sweetening agent, moisture and flavoring shall conform to the following:

	SPC not to exceed 100,000 per gram, Coliform count not to exceed 20 per gram, yeast and/or mold not to exceed 100 per gram.
Nonpasteurized frozen desserts	SPC not to exceed 100,000 per gram, coliform count not to exceed 20 per gram.
Whipped cream, instant whipped cream, instant topping, milkshake	SPC not to exceed 100,000 per gram, coliform count not to exceed 20 per gram.

Dry whole milk when used as an ingredient in a frozen dessert or a Grade A non-storable milk product shall be U.S.D.A. Extra grade or its equivalent. Nonfat dry milk, dry whey and dry buttermilk when used as an ingredient in a frozen dessert or a Grade A non-storable milk product shall meet the requirements of U.S.D.A. extra grade or its equivalent. Fats and oils other than from milk shall conform to the applicable provisions of the United States Food, Drug and Cosmetic Act as amended or those of any applicable State regulation for fats and oils of food grade standard.

Condensed milk, condensed whey mixes, blends and similar products received in bulk shall conform to the following:	SPC not to exceed 100,000 per gram, coliform count not to exceed 100 per gram
Milk products and goat milk products separated from milk or goat milk heated between 45ºF and 125ºF	Not to exceed the temperature and drug standard and bacterial limit for prepasteurized milk for Grade A use.
Milk products and goat milk products separated from milk or goat milk heated to a temperature greater than 125ºF and less than 161ºF	Not to exceed the temperature and drug standard and bacterial limit for pasteurized milk, lowfat milk, skim

milk, milk products, goat milk, goat milk products and frozen desserts.

§ 2.58 ANIMAL HEALTH.

(a) All milk for manufacturing or processing shall be from herds which are located in an accredited or modified accredited tuberculosis area as determined by the U.S. Department of Agriculture; provided, that herds located in an area that fails to maintain such accredited status shall have been accredited by said department as tuberculosis-free, or shall have passed an annual tuberculosis test.

(b) All milk for pasteurization shall be from herds under the cooperative State-Federal brucellosis eradication program and located in a classified brucellosis-free or Class A state, as defined by the U.S. Department of Agriculture. If located in Class B or C state, they shall meet U.S. Department of Agriculture requirements for an individually certified herd. All brucellosis reactors disclosed on blood agglutination tests shall be separated immediately from the milking herd.

(c) For diseases other than brucellosis and tuberculosis, the Department of Agriculture and Markets may require such physical, chemical or bacteriological tests as it deems necessary. The diagnosis of other diseases in dairy cattle shall be based upon the findings of a licensed veterinarian or a veterinarian in the employ of the Department of Agriculture and Markets. Any diseased animal disclosed by such test(s) shall be disposed of as the Department directs.

§ 2.60 ANIMAL HEALTH REQUIREMENTS FOR RAW MILK SALES FOR PERMITTEES SELLING RAW MILK.

(a) Permittees selling raw cow or goat milk shall be in compliance with regulations for the detection and control of tuberculosis contained in Section 2.58 of this Part.

(b) Permittees selling raw cow milk shall participate in the Division of Animal Industry milk ring testing program. Individual blood agglutination tests shall be performed on all animals in the herd following a positive reaction to the ring test.

(c) Permittees selling raw goat milk shall have individual blood agglutination tests made on each adult animal each year.

(d) Whenever any milking animal is found to be infected with brucellosis as indicated by the blood agglutination test, all distribution of raw milk from that herd shall be immediately suspended. The permittee shall comply with the procedures and directives of the Division of Animal Industry regarding infected

animals and shall not offer any further raw milk for distribution from that herd until again authorized to do so by the Department of Agriculture and Markets.

(e) Persons holding a permit to sell raw milk shall enroll and remain in a milk sampling program conducted by Quality Milk Promotion Services for detection of pathogenic bacteria.