

**NOTICE AND ORDER CONCERNING
MANDATORY TESTING FOR HIGHLY PATHOGENIC AVIAN INFLUENZA (HPAI)
IN RAW MILK PRODUCED BY RAW MILK PERMIT HOLDERS**

WHEREAS, highly pathogenic avian influenza virus A (known as H5N1 or hereinafter “HPAI”) is a specific subtype of influenza virus that can infect wild birds, poultry, cows, other mammals and humans;

WHEREAS, HPAI is a contagious viral disease that is known to be deadly to domestic poultry and has been transmitted within and between farms, including between dairy and poultry farms;

WHEREAS, HPAI has been detected in lactating dairy cattle in several other states since 2024, resulting in decreased milk production, adverse health impacts on dairy cattle, and HPAI disease spread to other livestock, poultry, and other mammals, including humans;

WHEREAS, on December 6, 2024, the U.S. Department of Agriculture (USDA) announced a Federal Order and the launch of the National Milk Testing Strategy (NMTS) to facilitate HPAI surveillance of the nation’s milk supply and dairy herds by requiring the testing of raw milk samples collected at every silo containing Grade “A” milk intended for pasteurization at processing facilities receiving Grade “A” bulk raw cow’s milk;

WHEREAS, USDA’s Federal Order requires any person responsible for a dairy farm, bulk milk transporter, bulk milk transfer station, or dairy processing facility that sends or holds raw (unpasteurized) milk intended for pasteurization to allow New York State, as a USDA Animal and Plant Health Inspection Service cooperator, to obtain raw milk in a quantity sufficient to test for HPAI virus;

WHEREAS, New York State is a participating state in the NMTS which facilitates HPAI testing for the majority of the state’s dairy producers, but which does not include all raw milk permit holders;

WHEREAS, scientific evidence has demonstrated that raw, unpasteurized milk is a vehicle for the spread of HPAI; and laboratory testing has confirmed high quantities of the HPAI virus in raw milk, creating an increased risk for transmission within and between farms;

WHEREAS, testing for HPAI in raw milk samples from raw milk permit holders will further support the protection and health of the state’s dairy herds, identify lactating dairy cattle impacted by HPAI, support the rapid implementation of enhanced biosecurity measures to mitigate the risk of virus transmission to other livestock and mammals, and support critical efforts to protect the health of animals and humans;

WHEREAS, raw milk does not provide the protection of pasteurization to kill harmful bacteria, including HPAI; and contact with raw milk containing HPAI has been directly linked to adverse human health consequences;

NOW, THEREFORE, based upon the foregoing, I, Richard A. Ball, as Commissioner of the Department of Agriculture and Markets of the State of New York (“Department”), hereby find that to protect animal health, assist in the identification of the presence of HPAI in lactating dairy cattle, and reduce the risk of further spread of HPAI,

IT IS HEREBY ORDERED, effective immediately until repealed, pursuant to Agriculture and Markets Law Article 2, Section 16(1), (35), Article 4, Sections 47 and 71-n, Article 5, Section 72, Article 17, Section 200, Article 21, Section 254, and New York Codes, Rules and Regulations Title 1, Sections 2.3 and 2.58(c), that Department inspectors are authorized to collect raw milk samples for HPAI testing from raw milk permit holders during their routine monthly inspections, or at such other times as deemed necessary by the Department to assist in the detection of HPAI.

Dated: Albany, New York
January 10, 2025

A handwritten signature in blue ink, reading "Richard A. Ball".

Richard A. Ball
Commissioner of Agriculture and
Markets of the State of New York