



United States Department Of Agriculture

Agricultural Marketing Service Dairy Programs

**FEDERAL MILK ORDER No. 1**  
**Northeast Marketing Area**  
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May 23, 2012

**TO:** Handlers and Interested Parties  
**FROM:** Market Administrator, Boston, MA  
**SUBJECT:** Acceptance of Off-Quality Producer Milk as Determined by Bacterial Count

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Effective June 1, 2012, the Northeast Marketing Area, Federal Milk Order No. 1, will adopt a revised policy regarding the acceptance and handler payment responsibility for off-quality producer milk. This policy will follow the minimum milk quality standards set forth in Section 7 of the 2011 Pasteurized Milk Ordinance (PMO), “Standard for Grade A Raw Milk and Milk Products” – bacterial limits subsection. The provision specifies acceptable bacterial limits for Grade A raw milk and milk products for pasteurization, ultra-pasteurization, or aseptic processing as follows:

**Bacterial Limits: Individual producer milk not to exceed 100,000 per ml prior to comingling with other producer milk. Not to exceed 300,000 per ml as comingled milk prior to pasteurization.**

The acceptable test to confirm the bacteria level of suspected off quality milk is the standard plate count (SPC), or alternative methods as described under the 2007 PMO Sections 1-7. Raw farm milk so tested and found to be in excess of these bacterial limits does not meet the PMO standards for Grade A milk and therefore will be considered “*milk not approved by a duly constituted regulatory agency for fluid consumption*”, under §1001.12 (a) of the Northeast Order. Such milk shall not be pooled; is not subject to the minimum payment provisions of the Order; and milk from the offending producer is ineligible for pooling until the producer’s milk meets the Grade A requirement for fluid consumption.

The pool status of producers with milk comingled on a farm pickup bulk tanker will not be affected. Such milk may be considered to be a receipt at the plant at which the load was rejected and the pooling handler is obligated to pay these producers the appropriate minimum order prices.

**Responsibility for Damages**

The offending producer also may be held responsible, by the handler, for damage done to comingled milk that is rendered non Grade A due to the excessive SPC count of the producer’s milk subject to the following conditions:

1. The handler may not deduct the value of damage to such other milk from the producer’s milk check without written authorization from the producer.
2. Restitution to the handler by the responsible producer shall not exceed the value of the load of milk (excluding the responsible producer’s milk) at the lowest class price for the month, plus actual and reasonable disposal costs, *net of any salvage value that the handler may receive for the disposed milk.*

(Over)

### **Handler Reporting Requirement**

In order for a handler to be excused from a producer payment obligation, due to an incident of off-quality producer milk with bacterial counts above the Grade A milk limit, such occurrence must be reported on the Northeast Order's "***Report of Milk Products Dumped or Lost***" form. The reported explanation should be "**Bacterial Contamination**" or some other self-evident explanation. A copy of the "Report of Milk Products Dumped or Lost" form is attached, and is available as a fillable-pdf form on the Market Administrator's website: [www.fmmone.com](http://www.fmmone.com) under the Handler Reports Forms section. The completed form should be faxed to 866-814-8579 or emailed to [dumpedmilk@fedmilk1.com](mailto:dumpedmilk@fedmilk1.com), following the completion of a SPC test confirming non Grade A bacteria levels.

### **Record Retention**

A copy of the **SPC test** result pertaining to the load(s) that was tested at a lab certified by a governmental regulatory agency to perform such tests must be retained by the handler in accordance with the provisions under §1000.27 of the Northeast Order, Handler Responsibility for Records and Facilities. The lack of a SPC test result for review by staff of the Market Administrator may reverse the non-payment obligation and result in underpayment and/or late payment charges levied against the handler for this incident.

/s/ Erik F. Rasmussen

### **Attachment:**

Report of Milk Products Dumped or Lost Form



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Dairy Programs

## FEDERAL MILK ORDER No. 1 Northeast Marketing Area

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## PREVIOUS POLICY

May 8, 2000

To: Handlers With Receipts From Producers

From: Erik F. Rasmussen, Market Administrator, Boston, Massachusetts

Subject: Acceptance of Off-Quality Farm Bulk Tank Producer Milk

In contrast to antibiotic milk, high bacteria or other off-quality milk in the farm bulk tank should be detected by the farm pickup driver and rejected at that point. It is thus incumbent upon the collector, as agent of the handler, to examine the milk and make a finding as to whether or not the milk is of proper quality to be accepted into the handler's supply.

Therefore, handlers will be required to pay producers for all milk other than penicillin or antibiotic contaminated milk which was accepted into a tank truck at the producer's farm.

If you have any questions, please contact one of the offices listed above.