

## § 58.135

classified as No. 4 shall be made before pickup. The producers of No. 3 or No. 4 milk shall be notified immediately, furnished applicable sediment discs and the next shipment tested.

This procedure of retesting successive shipments and accepting probational (No. 3) milk and rejecting No. 4 milk may be continued for not more than 10 calendar days. If at the end of this time all of the producer's milk does not meet the acceptable sediment content classification (No. 1 or No. 2), it shall be rejected.

[40 FR 47911, Oct. 10, 1975, Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 50 FR 34673, Aug. 27, 1985; 67 FR 48975, July 29, 2002]

### § 58.135 Bacterial estimate.

(a) *Methods of Testing.* Milk shall be tested for bacterial estimate by using one of the following methods or by any other method approved by Standard Methods for the Examination of Dairy Products.

- (1) Direct Microscopic clump count;
- (2) Standard plate count;
- (3) Plate loop count;
- (4) Pectin gel plate count;
- (5) Petrifilm aerobic count;
- (6) Spiral plate count;
- (7) Hydrophobic grid membrane filter count;
- (8) Impedance/conductance count;
- (9) Reflectance calorimetry.

(b) *Frequency of Testing.* A laboratory examination to determine the bacterial estimate shall be made on a representative sample of each producer's milk at least once each month at irregular intervals. Samples shall be analyzed at a laboratory in accordance with State regulations.

(c) *Acceptance of milk.* The following procedures shall be applied with respect to bacterial estimates:

(1) Whenever the bacterial estimate indicates the presence of more than 500,000 bacteria per ml., the producer shall be notified with a warning of the excessive bacterial estimate.

(2) Whenever two of the last four consecutive bacterial estimates exceed 500,000 per ml., the appropriate regulatory authority shall be notified and a written warning notice given to the producer. The notice shall be in effect so long as two out of the last four consecutive samples exceed 500,000 per ml.

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(3) An additional sample shall be taken after a lapse of 3 days but within 21 days of the notice required in paragraph (c) (2) of this section. If this sample also exceeds 500,000 per ml., subsequent milkings shall be excluded from the market until satisfactory compliance is obtained. Shipment may be resumed when an additional sample of herd milk is tested and found satisfactory.

[67 FR 48975, July 29, 2002]

### § 58.136 Rejected milk.

A plant shall reject specific milk from a producer if the milk fails to meet the requirements for appearance and odor (§ 58.133(a)), if it is classified No. 4 for sediment content (§ 58.134), or if it tests positive for drug residue (§ 58.133(c)).

[58 FR 26913, May 6, 1993]

### § 58.137 Excluded milk.

A plant shall not accept milk from a producer if:

(a) The milk has been in a probational (No. 3) sediment content classification for more than 10 calendar days (§ 58.134);

(b) Three of the last five milk samples have exceeded the maximum bacterial estimate of 500,000 per ml. (§ 58.135 (c)(3)).

(c) Three of the last five milk samples have exceeded the maximum somatic cell count level of 750,000 per ml. (1,000,000 per ml. for goat milk) (§ 58.133 (b)(6)); or

(d) The producer's milk shipments to either the Grade A or the manufacturing grade milk market currently are not permitted due to a positive drug residue test (§ 58.133(c)(4)).

[58 FR 26913, May 6, 1993, as amended at 67 FR 48975, July 29, 2002]

### § 58.138 Quality testing of milk from new producers.

A quality examination and tests shall be made on the first shipment of milk from a producer shipping milk to a plant for the first time or resuming shipment to a plant after a period of non-shipment. The milk shall meet the requirements for acceptable milk, somatic cell count and drug residue level (§§ 58.133, 58.134 and 58.135). The buyer