



Pennsylvania Department of
AGRICULTURE
Bureau of Food Safety and Laboratory Services

(Updated 11/1/16)

Guidance Document

**PERMITS ALLOWING THE SALE OF
RAW MILK FOR HUMAN CONSUMPTION**

Table of Contents

Section	Title	Page
1	Overview: Purpose and Limits of this Guidance Document	1
2	Terminology.....	2
3	Prohibitions regarding the “Sale” of Raw Milk.....	2
4	Permit.....	3
5	Requirements for the Issuance of a Raw Milk Permit.....	4
6	Sanitation.....	7
7	Animal Health.....	7
8	Regular Testing of Water Supply.....	8
9	Regular Testing of Raw Milk.....	8
10	Violations of Raw Milk Testing Standards.....	10
11	Location of Raw Milk Packaging Facilities on the Dairy Farm.....	11
12	Label Content Review by the Department.....	12
13	Inspection, Sampling and Testing by the Department.....	13
14	Enforcement: Suspension or Revocation of a Raw Milk Permit.....	13
15	Enforcement: Summary Criminal Prosecution.....	14
16	Enforcement: Injunctions.....	14
17	Enforcement: Seizure, Condemnation, Denaturing or Destruction of Raw Milk; Exclusion from Sale.....	14
18	Other Statutes and Regulations relating to Maintaining a Raw Milk Permit.....	15
19	Contacting the Department.....	15

1. Overview: Purpose and Limits of this Guidance Document. This document describes the requirements and process by which a person may *obtain* and *maintain* a permit allowing the sale of raw milk for human consumption.

It is illegal for a person to sell raw milk within Pennsylvania unless the person selling the raw milk possesses a raw milk permit. Raw milk permits are issued by the Pennsylvania Department of Agriculture (Department), which is responsible to administer and enforce the Milk Sanitation Law and the Food Act,

and to make sure that the laws and regulations relating to the lawful production and sale of raw milk are complied with.

This document describes how the Department will, in most instances, exercise its *discretion* in raw milk permit matters arising under the Milk Sanitation Law, the Food Act or their attendant regulations. It does not preempt or contradict the Milk Sanitation Law, the Food Act or any regulation promulgated under authority of these laws, or any other statutory or regulatory requirements. In the event of a conflict between a provision of this guidance document and a statute or regulation, the statute or regulation shall control.

Copies of the Milk Sanitation Law and the Food Act are available at the Department's website: www.agriculture.state.pa.us. The regulations that are established under authority of the Milk Sanitation Law are found at Title 7 of the Pennsylvania Code, under Chapters 57 and 59. The regulations that are established under authority of the Food Act are found at Title 7 of the Pennsylvania Code, under Chapter 46. All of these regulations can be viewed on-line, at www.pacode.com.

2. **Terminology.** This guidance document makes reference to “raw milk for human consumption,” “successor raw milk permits” and “new raw milk permits.” For purposes of this guidance document:

a. The phrase “raw milk for human consumption” refers to unpasteurized milk that is marketed to consumers without first being pasteurized or further processed.

b. The phrase “successor raw milk permit” describes a raw milk permit sought by an applicant who:

i. Currently holds a valid raw milk permit; *and*

ii. Seeks to have a successor raw milk permit in place upon the August 31 expiration of the current raw milk permit, so as to continue to be able to lawfully sell raw milk for human consumption; *and*

iii. Seeks the raw milk permit for the same dairy farm that is the subject of the current raw milk permit; *and*

iv. Delivers the permit application to the Department prior to the August 31 expiration of the current raw milk permit.

(3) The phrase “new raw milk permit” describes a raw milk permit that is not a successor raw milk permit.

3. **Prohibitions regarding the “Sale” of Raw Milk.**

a. *General Prohibitions.* The following activities are among the prohibitions imposed by the Milk Sanitation Law:

- i. A person shall not sell raw milk for human consumption without having a current raw milk permit issued by the Department.
- ii. A person shall not sell raw milk without being in compliance with the testing and documentation requirements of the Milk Sanitation Law, and any other applicable statute or regulation.
- iii. A person shall not sell raw milk for human consumption in any form other than as raw milk sold under permit issued by the Department. Raw milk may be used in the manufacture of aged cheese; however the resulting cheese may not be sold unless the producer holds a permit from the Department, authorizing the sale of aged cheese manufactured from raw milk.

b. *Broad Definition of what constitutes a "Sale" of Raw Milk.* It is important for a raw milk permit holder (or a person who does not have a raw milk permit and is "selling" raw milk illegally) to know that *the Milk Sanitation Law defines the "sale" of raw milk in a very broad way*, to include a wide range of activities and transactions. These include:

- i. the sale of raw milk;
- ii. the exchange of raw milk;
- iii. the delivery of raw milk;
- iv. the having of raw milk in one's possession, care, control or custody with the intent to sell, exchange or deliver it;
- v. offering raw milk for sale (whether the offer is made through display of the raw milk, through print advertising, through electronic advertising or through any other method); and
- vi. exposing raw milk for sale.

4. *Permit.*

a. *Actions authorized under a Raw Milk Permit.* A raw milk permit essentially authorizes two things:

- i. The raw milk permit authorizes the permit holder to lawfully produce and sell (within Pennsylvania) raw milk for human consumption.
- ii. The raw milk permit authorizes the permit holder to obtain an additional permit from the Department, authorizing the production and lawful sale of 60 day aged hard cheese from raw milk .(standards for hard cheese as listed in 21CFR133.150).

b. *Duration of Permit.* A raw milk period runs from September 1 of a given year through August 31 of the following year. If a raw milk permit holder wishes to renew a permit for a subsequent September-1-through-August-31 interval, the permit holder should apply to the Department well in advance of the August 31 expiration date. A permit application may be obtained by contacting the Department at the address set forth in Section 19 (titled “Contacting the Department”).

5. *Requirements for the issuance of a raw milk permit.*

a. *Pre-issuance inspection.*

i. *New raw milk permits.* Prior to issuing a raw milk permit, the Department will inspect the dairy farm that is the subject of a new raw milk permit application, to determine whether the dairy farm is in compliance with the Milk Sanitation Law and the regulations promulgated under authority of the Milk Sanitation Law. The dairy farm must be in passing condition in order to be eligible for a raw milk permit.

ii. *Successor raw milk permits.* If a raw milk permit holder applies to the Department for a successor raw milk permit, then the Department may issue the raw milk permit without conducting the dairy farm inspection described in subparagraph (i).

b. *Confirmation of Tuberculosis-Free and Brucellosis-Free Status.*

i. *New raw milk permits.* An applicant for a new raw milk permit shall provide the Department confirmation that the animal or herd from which the raw milk is to be produced has been determined to be free from brucellosis and free from tuberculosis, in accordance with the process described in Section 7 (a) and (b) (titled “Animal Health”). This confirmation must be provided in order for the subject dairy farm to be eligible for a raw milk permit.

ii. *Successor raw milk permits.* An applicant for a successor raw milk permit shall, at intervals of no greater than 13 months, provide the Department confirmation that the animal or herd from which the raw milk is to be produced has been determined to be free from brucellosis and tuberculosis by annual tests in accordance with the process described in Section 7 (a) and (b) (titled “Animal Health”).

c. *General herd health.*

i. *New raw milk permits.* An applicant for a new raw milk permit shall have a licensed veterinarian examine the herd and provide the Department a written report of this examination. The report shall reflect that the herd is in good general health and free from communicable disease. This shall be done in accordance with Section 7 (c) (titled “Animal Health”).

ii. *Successor raw milk permits.* An applicant for a successor raw milk permit shall provide the Department a copy of a veterinary examination report as described in subparagraph (i). The report must be dated within one year preceding the date of the application, and shall reflect that the herd is in general good health and free from communicable disease. The applicant shall continue to have this veterinary examination conducted on an annual basis, in accordance with Section 7 (c) (titled “Animal Health”).

d. *Confirmation of safe water supply.*

i. *New raw milk permits.* An applicant for a new raw milk permit shall have the dairy farm water supply tested, and shall provide the Department with confirmation that the water is bacteriologically safe, in accordance with Section 8 (titled “Regular Testing of Water Supply”). Confirmation that the water supply is bacteriologically safe must be provided in order for the subject dairy farm to be eligible for a raw milk permit. If the water supply is through a public or municipal water system, this testing requirement does not apply.

ii. *Successor raw milk permits.* An applicant for a successor raw milk permit shall provide the Department with a copy of a written laboratory report as described in subparagraph (i). The report must be dated no earlier than 6 months preceding the date of the application, shall be done in accordance with Section 8 (c) (titled “Regular Testing of Water Supply”), and shall reflect that the dairy farm water supply is bacteriologically safe.

e. *Sampling and testing.*

i. *New raw milk permits.* An applicant for a new raw milk permit shall demonstrate the ability to produce raw milk for human consumption through the following process:

A. The applicant shall have an approved sampler (a person certified by the Department to obtain samples of milk or milk products) draw 3 separate samples of commingled milk. The samples shall be drawn at least 7 days apart, and shall be taken on an unannounced basis.

B. Each of these 3 samples shall be submitted to a Pennsylvania Approved Dairy Laboratory or the Department for analysis.

C. The analysis shall determine whether the sample meets the temperature, bacteriological and chemical standards set forth in the Raw Milk Testing Standards Chart set forth in Section 9 (c) (titled “Regular Testing of Raw Milk”). These standards are as follows:

Type of Standard	Standard
Temperature	Raw milk shall be cooled to 40°F (4°C) or less within two hours after milking, provided that the blend

	temperature after the first and subsequent milking does not exceed 50°F (10°C).
Bacterial Count	Bacteria shall not be present in excess of 20,000 per milliliter. NOTE: Tested in conjunction with a drug residue/ inhibitory substance test.
Coliform Count	Coliform shall not exceed 10 per milliliter. NOTE: Tested in conjunction with a drug residue/ inhibitory substance test.
Somatic Cell Count	The somatic cell count shall not exceed 750,000/milliliter (1,500,000/ml for goat milk).
Test for presence of Drugs (including growth inhibitors)	There shall be no positive results for drug residue, using drug residue detection laboratory techniques referenced in the current Grade "A" Pasteurized Milk Ordinance developed by the United States Department of Health and Human Services, Food and Drug Administration.
Test for presence of Pathogenic Bacteria including <i>Salmonellae</i> , <i>Listeria monocytogenes</i> , <i>Camphylobacter</i> , and <i>E. Coli</i> 0157:H7	There shall be no pathogenic bacteria present.

D. If any of the 3 samples *violates or exceeds* a standard set forth in the referenced Raw Milk Testing Standards Chart, the 3-sample process shall repeat itself until 3 successive samples are in compliance with the referenced standards.

E. If the first of the three required samples is tested as prescribed above, and concludes that no pathogenic bacteria are present; the second and third samples

need not be tested for the presence of pathogenic bacteria. If a sample test concludes that pathogenic bacteria *are* present, no raw milk permit will be issued until and unless two separate consecutive tests, from samples drawn at least 7 days apart, conclude that no pathogenic bacteria are present.

ii. *Successor raw milk permits.* An applicant for a successor raw milk permit shall demonstrate its ability to produce raw milk for human consumption through the regular sampling and testing process described in Section 9 (titled “Regular Testing of Raw Milk”).

f. *Raw milk packaging.*

(a) *Sales or delivery on premises other than the farm where the raw milk for human consumption is produced.*

When raw milk for human consumption is packaged for sale or delivery at a location other than the farm where the raw milk for human consumption is produced, the bottling and capping operations shall be conducted in a room separate from the milk room by a mechanical means of filling and capping the bottles or containers, and the closure must protect the pouring lip to its largest diameter.

(b) *Sales or delivery on premises where the raw milk for human consumption is produced.*

When raw milk for human consumption is packaged for sale or delivery at the location where the raw milk for human consumption is produced, the Department will consider a milk room facility as being adequate for the bottling and capping of the bottles or containers. This activity must be completed in a sanitary manner using easily cleanable equipment that has been properly cleaned and sanitized.

6. **Sanitation.** In general, a raw milk permit holder must maintain and operate its dairy farm in compliance with the same sanitation and handling standards that are applicable to the production of milk for pasteurization. These requirements are in the regulations at 7 Pa. Code Chapter 59a.19, entitled “Standards for Grade “A” milk for pasteurization, ultra-pasteurization, or aseptic processing.” These regulations can be viewed on-line, at <http://www.eatsafepa.com>, or are available from the Department upon request.

7. **Animal Health.** In general, a raw milk permit holder must monitor the health of the animals from which the raw milk is produced, to ensure that they are in ~~general~~ good health and free of tuberculosis and brucellosis. A more specific description of these herd health monitoring requirements follows:

a. *Confirmation of Brucellosis-Free Status.*

i. *Annual Blood Tests.* A raw milk permit holder shall, at intervals of no greater than 13 months, provide the Department confirmation from a licensed veterinarian that the animal or herd from which the raw milk is produced has been determined to be free from brucellosis by annual blood tests conducted in accordance with the regulations at 7 Pa. Code Chapter 7 (relating to brucellosis regulations).

ii. *Ring Tests at Intervals of Six Months or Less.* A raw milk permit holder shall, at intervals of no greater than 6 months, provide the Department confirmation of the results of a brucellosis ring test conducted with respect to the animal or herd from which the raw milk is produced.

b. *Annual Confirmation of Tuberculosis-Free Status.* A raw milk permit holder shall, at intervals of no greater than 13 months, provide the Department confirmation from a licensed veterinarian that the animal or herd from which the raw milk is produced has been determined to be free from tuberculosis by annual tests conducted in accordance with the regulations at 7 Pa. Code Chapter 9 (relating to control and eradication of tuberculosis of livestock).

c. *Annual Veterinary Examination.* A raw milk permit holder shall, at intervals of no more than one year, have a licensed veterinarian examine the herd and issue a written report of this examination. The report should reflect that the herd is in good general health and free from communicable disease. The raw milk permit holder shall retain a copy of the written veterinarian's report for at least three years and shall, upon request of the Department, make the report available for inspection.

8. *Regular Testing of Water Supply.*

a. *Regular Testing.* The water supply for a dairy operation that produces raw milk under a raw milk permit must be safe and sanitary.

b. *Testing Frequency.* Individual water supplies must be tested *at least once every 6 months, and whenever any repair or alteration is made* to the water supply system. This testing is at the raw milk permit holder's expense. If the water supply is through a public or municipal water system, this testing requirement does not apply.

c. *Testing Standards.* The water tests described in this section shall be conducted at a laboratory that is acceptable to the Department. The testing shall include bacteriological examinations to determine whether the water is bacteriologically safe. The water supply shall contain a Most Probable Number of Coliform Organisms (MPN) of less than 2.2-per-100-milliliters by the multiple tube fermentation method or less than 1-per-100-milliliters by the membrane filter technique or the chromogenic substrate technique. The water shall otherwise be safe and sanitary.

d. *Records of Water Testing.* The raw milk permit holder shall retain all records of required water tests, and shall make these available for inspection upon request of the Department.

9. *Regular Testing of Raw Milk.*

a. *Responsibility.* A raw milk permit holder is responsible to arrange for the regular sampling and testing required with respect to the raw milk permit, and to pay for this testing.

b. *Pennsylvania Approved Dairy Laboratories.* All raw milk samples submitted for testing must be analyzed at an *official laboratory* (a laboratory which is under the direct supervision of the Department) or a *Pennsylvania approved dairy laboratory* (a laboratory authorized or designated by the Department as allowed to perform specific milk testing).

c. *Testing Schedule.* A raw milk permit holder must coordinate raw milk testing on the following schedule, and the raw milk samples must meet the following standards:

Raw Milk Testing Standards

Required Action Interval	Type of Action or Test Required	Standard
At all times	Maintain raw milk temperature in accordance with raw milk temperature standards.	Raw milk shall be cooled to 40°F (4°C) or less within two hours after milking, provided that the blend temperature after the first and subsequent milking does not exceed 50°F (10°C).
At least twice each month, in conjunction with the tests for coliform count and for the presence of drugs (including growth inhibitors), described in this chart	Bacterial Count	Bacteria may not be present in excess of 20,000 per milliliter. NOTE: Tested in conjunction with a drug residue/ inhibitory substance test.
At least twice each month, in conjunction with the tests for bacterial count and for the presence of drugs (including growth inhibitors), described in this chart	Coliform Count	Coliform may not exceed 10 per milliliter. NOTE: Tested in conjunction with a drug residue/ inhibitory substance test.
At least twice each month	Somatic Cell Count	The somatic cell count shall not exceed 750,000/milliliter (1,500,000/ml for goat milk)
At least twice each month, in conjunction with the tests	Test for presence of drugs (including growth	There shall be no positive results for drug residue,

for bacterial count and for coliform count, described in this chart	inhibitors)	using drug residue detection laboratory techniques referenced in the current Grade “A” Pasteurized Milk Ordinance developed by the United States Department of Health and Human Services, Food and Drug Administration.
Once every 6 months	From a sample drawn from the bulk tank, test for presence of the following pathogenic Bacteria including <i>Salmonellae</i> , <i>Listeria monocytogenes</i> , <i>Camphylobacter</i> , and <i>E. Coli</i> 0157:H7	There shall be no pathogenic bacteria present.

10. **Violations of Raw Milk Testing Standards.**

a. *Bacterial count, somatic cell count, coliform count or cooling temperature tests.*

i. If *two of the last four* tested raw milk samples exceed the bacterial count, somatic cell count or coliform count standards described above, and/or fail to meet the cooling temperature requirements described above, the Department will provide the raw milk permit holder with written notice that it is in violation of the requirements of the Milk Sanitation Law and 7 PA Code Chapter 59a.

ii. If *three of the last five* tested raw milk samples exceed the bacterial count, somatic cell count or coliform count standards described above, and/or fail to meet the cooling temperature requirements described above, the Department shall proceed to revoke or suspend the raw milk permit, and the raw milk permit holder shall be subject to summary criminal prosecution under the Milk Sanitation Law.

b. *Pesticides.* If a raw milk sample tests positive for the presence of a pesticide, the raw milk permit holder shall do the following:

i. Immediately cease the sale of raw milk for human consumption.

ii. Take a second sample and submit it for testing for pesticide residue.

iii. Investigate and determine the cause of the contamination, report the result of that investigation to the Department, and correct that cause of contamination.

iv. Refrain from selling raw milk until and unless the second test shows the sample to be free of pesticide residue, or to be below the actionable levels established for such residue, and the Department reviews these test results and approves the resumption of raw milk sales.

c. Drugs including *growth inhibitors*. If a raw milk sample tests positive for the presence of a drug residue, the raw milk permit holder shall do the following:

i. Immediately cease the sale of raw milk for human consumption.

ii. Investigate and determine the cause of the contamination, report the result of the investigation to the Department, and correct the cause of contamination.

iii. Have a second sample collected by an approved sampler and tested at a Pennsylvania approved dairy laboratory.

iv. Refrain from selling raw milk until and unless the second test shows the sample to be free of growth inhibitor residue, or to be below the actionable levels established for such residue, and the Department reviews these test results and approves the resumption of raw milk sales.

d. *Disease-producing organisms*. If a raw milk sample tests positive for the presence of pathogenic bacteria or other disease-producing organisms such as *Salmonellae*, *Listeria monocytogenes*, *Camphylobacter* or *E. Coli* 0157:H7, the raw milk permit holder shall do the following:

i. Immediately cease the sale of raw milk for human consumption.

ii. Investigate and determine the cause of the contamination, report the result of that investigation to the Department, and correct that cause of contamination.

iii. Wait at least 2 days from the cessation of raw milk sales (or until such time as conformance can reasonably be assured), and then have an approved sampler collect a second sample and submit it to a Pennsylvania approved dairy laboratory to be tested for the presence of pathogenic bacteria.

iv. Following the initial sampling described in the preceding requirement, have an approved sampler collect an additional sample – at least one day after the previous sample - and submit it to a Pennsylvania approved dairy laboratory for testing for the presence of pathogenic bacteria.

v. Refrain from selling raw milk until and unless two consecutive tests, from samples drawn at least one day apart, show that raw milk produced at the dairy operation that is the subject of the raw milk permit is free from disease-producing organisms, and the Department reviews these test results and approves the resumption of raw milk sales.

11. *Raw milk packaging:*

(a) *Sales or delivery on premises other than the farm where the raw milk for human consumption is produced.*

When raw milk for human consumption is packaged for sale or delivery at a location other than the farm where the raw milk for human consumption is produced, the bottling and capping operations shall be conducted in a room separate from the milk room by a mechanical means of filling and capping the bottles or containers, and the closure must protect the pouring lip to its largest diameter.

(b) *Sales or delivery on premises where the raw milk for human consumption is produced.*

When raw milk for human consumption is packaged for sale or delivery at the location where the raw milk for human consumption is produced, the Department will consider a milk room facility as being adequate for the bottling and capping of the bottles or containers. This activity must be completed in a sanitary manner using easily cleanable equipment that has been properly cleaned and sanitized.

12. *Label Content Review by the Department.*

a. *Raw Milk in Containers owned by the Raw Milk Permit Holder.*

(1) *General label statements.* If raw milk for human consumption is prepackaged for sale in containers that are owned by the raw milk permit holder, the labeling on these containers and caps shall be submitted to the Department and approved by the Department prior to use in commerce. The container shall be labeled as raw milk, and include the fluid volume as well as the name and address of the distributor or producer and the words “Keep Refrigerated.” It shall not be misbranded or contain any false or misleading statements.

(2) a. *Consumer advisory for raw animal-derived foods that have not been processed to remove pathogens.* The label shall also contain a consumer advisory statement to notify consumers of the increased risks (particularly to certain highly susceptible populations) associated with the consumption of raw animal-derived foods that have not been processed to remove pathogens. An acceptable notice would be as follows:

Raw milk has not been processed to remove pathogens that can cause illness. The consumption of raw milk may significantly increase the risk of foodborne illness in persons who consume it - particularly with respect to certain highly-susceptible populations such as preschool-age children, older adults, pregnant women, persons experiencing illness, and other people with weakened immune systems.

The Department will consider alternative written means of notification of consumers of the potential risks associated with the consumption of raw milk by highly-susceptible populations.

b. *Raw Milk in Customer-Owned Containers.* If raw milk is packed for sale in containers that are owned *by the consumer*, the Department does not have to review and approve any labeling on the container or caps. The Department recommends that customer owned containers be clean, food-grade containers of 1 gallon or smaller capacity. A consumer advisory shall be posted at the location where the customer owned containers are filled, or in close proximity to that location, so as to provide consumers notice of increased risks associated with the consumption of raw animal-derived foods that have not been processed to remove pathogens by certain highly susceptible populations. An acceptable notice would be as follows:

Raw milk has not been processed to remove pathogens that can cause illness. The consumption of raw milk may significantly increase the risk of foodborne illness in persons who consume it - particularly with respect to certain highly-susceptible populations such as preschool-age children, older adults, pregnant women, persons experiencing illness, and other people with weakened immune systems.

The Department will consider alternative written means of notification of consumers of the potential risks associated with the consumption of raw milk by highly-susceptible populations.

(3). *Label requirement: milk dating.*

(a) The cap of the raw milk container, or the container itself, must be conspicuously and legibly marked in a contrasting color with the designation of the “sell-by” date—the month and day of the month after which the raw milk may not be sold or offered for sale. The designation may be numerical—such as “8-15”—or with the use of an abbreviation for the month, such as “AUG 15” or “AU 15.” The words “Sell by” or “Not to be sold after” must precede the designation of the date, or the statement “Not to be sold after the date stamped above” must appear legibly on the container. This designation of the date may not exceed 17 days beginning after midnight on the day on which the raw milk was produced.

(b) *Prominence of sell-by date on label.* The sell-by date must be separate and distinct from any other number, letter or intervening material on the cap or container.

(c) *Prohibition.* Raw milk may not be sold or offered for sale for human consumption if the raw milk is sold or offered for sale after the sell by date designated on the container.

13. ***Inspection, Sampling and Testing by the Department.*** A raw milk permit holder shall allow the Department and its personnel to inspect the dairy operation that is the subject of the permit, review records, draw samples, conduct tests and take such other actions as are necessary to the Department’s performance of its responsibilities under the Milk Sanitation Law, the Food Act or any other applicable statute or regulation. If a raw milk permit holder fails to allow this inspection and sampling by the Department, the Department may take steps to revoke or suspend the raw milk permit.

14. ***Enforcement: Suspension or Revocation of a Raw Milk Permit.***

a. *General.* The Department may take action to suspend or revoke a raw milk permit if a permit holder does not comply with the Milk Sanitation Law, or the regulations promulgated under authority of the Milk Sanitation Law.

i. A *suspension* is a temporary order that effectively removes the raw milk permit until a specific date, or for a specific period, or until specific conditions are met.

ii. A *revocation* effectively terminates the permit for the remainder of the September 1-through August 31 period for which it was originally issued.

b. *Procedure.*

i. The Milk Sanitation Law *requires* that the Department provide a raw milk permit holder with at least 5 days' advance written notice of a raw milk permit revocation or suspension. This written notice must be sent by registered mail.

ii. If the basis for a proposed raw milk permit suspension or revocation is that pathogenic bacteria have been detected in the raw milk, or foreign substances are present in the raw milk, or any condition exists where consumption of raw milk produced and sold prior to revocation or suspension of the raw milk permit may pose a threat to the health or safety of those persons who consume it, the Department shall immediately notify the raw milk permit holder and request that it *voluntarily cease* all sales of raw milk – without regard to whether the raw milk permit holder has received the 5 days' advance written notice required under the Milk Sanitation Law.

A. If the raw milk permit holder *complies* with a request that it voluntarily cease raw milk sales, the Department will consider this cooperation a mitigating factor as it determines any penalty or sanction relating to the violation.

B. If the raw milk permit holder *does not choose to comply* with a request that it voluntarily cease raw milk sales, the Department shall do the following:

I. Apprise the Pennsylvania Department of Health and any local health department having jurisdiction with notice of the situation, and recommend these entities take lawful action to ensure that sales of raw milk cease.

II. Consult with the Office of Attorney General regarding whether it should institute legal action to obtain an injunction to prohibit the raw milk sales.

iii. If the raw milk permit holder requests a hearing on the proposed permit suspension or revocation, the Department will arrange for an administrative hearing before a Hearing Examiner.

iv. If the raw milk permit holder does not request a hearing on the proposed permit suspension or revocation, the Department shall issue a final adjudication, ordering the suspension or revocation.

v. A raw milk permit is, and remains, the property of the Department – even when it is in the physical custody of the permit holder. If a raw milk permit is suspended or revoked, the person in possession of the raw milk permit shall immediately return or surrender that raw milk permit to the Department. In the case of a permit suspension, the Department shall promptly return the raw milk permit to the permit holder at the end of the suspension period.

15. **Enforcement: Summary Criminal Prosecution.** If a raw milk permit holder violates any provision of the Milk Sanitation Law, or the regulations promulgated under authority of the Milk Sanitation Law, the Department may file a summary criminal prosecution against a raw milk permit holder for the violation. The violation is graded as a summary criminal offense. If convicted, a raw milk permit holder would face a fine of up to \$300 and/or imprisonment for up to 90 days.

16. **Enforcement: Injunctions.** The Department may ask the Attorney General to seek an injunction (an order issued by a court) to enjoin (prevent) a person from selling raw milk without the required raw milk permit or from violating the Milk Sanitation Law or the regulations promulgated under authority of the Milk Sanitation Law. Violations of an injunction can result in fines, imprisonment, or both.

17. **Enforcement: Seizure, Condemnation, Denaturing or Destruction of Raw Milk; Exclusion from Sale.**

a. *Seizure, Condemnation, Denaturing or Destruction of Raw Milk.* Whenever, in the opinion of the Secretary of the Department, a given supply of raw milk or illegally-produced raw milk products is considered unsafe or a menace to public health, the secretary may seize, condemn, denature, or destroy the milk or milk products, without compensation to the owner of the milk or milk products.

b. *Excluding Milk from Sale.* The Department may exclude raw milk or illegally-produced raw milk products from sale in either of the following circumstances:

i. The Secretary of the Department considers the raw milk or illegally-produced milk products to be unsafe; or

ii. If a raw milk permit holder violates a provision of the Milk Sanitation Law or a regulation promulgated under authority of the Milk Sanitation Law.

18. **Other Statutes and Regulations relating to Maintaining a Raw Milk Permit.** This document does not expand or limit the Department’s authority to administer and enforce the Milk Sanitation Law and the regulations developed under authority of the Milk Sanitation Law. A person who seeks to acquire or maintain a raw milk permit must conform to all of these applicable statutory and regulatory requirements. This guidance document does not attempt to address, summarize or present the legal requirements for

obtaining a raw milk permit. Its limited purpose is to provide the general procedure and standards for *maintaining* a raw milk permit.

19. ***Contacting the Department.*** For purposes of this document, the Department may be contacted as follows:

By mail, at the following address:

Pennsylvania Department of Agriculture
Bureau of Food Safety and Laboratory Services
ATTN: Division of Milk Sanitation
2301 North Cameron Street
Harrisburg, PA 17110-9408

By telephone, as follows: (717) 787-4315