

**ALABAMA DEPARTMENT OF PUBLIC HEALTH  
ADMINISTRATIVE CODE**

**CHAPTER 420-3-16-A  
APPENDICES**

**420-3-16-AE      Appendix E - Examples of 3-Out-Of-5 Compliance Enforcement Procedures.**

The following tables provide several useful examples in the application of the enforcement system described in Section 6. While the illustrations given relate only to pasteurized milk bacterial counts and somatic cell counts of raw milk, the method is applied, in like fashion, to the enforcement of established standards for cooling temperature, coliform limits, etc. Pasteurized milk or milk product that shows a positive phosphatase reaction and milk or milk product in which the presence of drug residue, pesticides, or other adulterants is found, shall be dealt with as indicated in 420-3-16(3) and 420-3-16(8), respectively.

**TABLE 11**

<b>WORK WATER VOLUME OF VARIOUS SIZED PIPELINES</b>		
<b>Date</b>	<b>Bacterial Count Per mL</b>	<b>Enforcement Action As Applied To A Standard of 20,000/mL</b>
01/05/2013	6,000	No Action Required
01/28/2013	11,000	No Action Required
2/11/2013	12,000	No Action Required
3/15/2013	22,000	Violative; written notice to the milk plant, two (2) of the last four (4) counts exceed the standard. (This notice shall be in effect as long as two [2] of the last four [4] consecutive samples exceed the standard). Additional sample required within twenty-one (21) days from the date of the notice, but not before the lapse of three (3) days.
04/02/2013	9,000	No Action Required.
4/19/2013	51,000	Violative; (three [3] of last five [5] counts exceed the standard) Required regulatory actions: 1. Suspend the milk plant permit; or 2. Forego permit suspension, provided the milk or milk products(s) in violation are not sold as Grade "A" milk or milk product(s); or 3. Impose monetary penalty in lieu of permit suspension, provided the milk or milk product(s) in violation are not sold as Grade "A" milk or milk product(s).
4/23/2013		Issue temporary permit (if applicable) after a milk plant inspection. Begin accelerated sampling schedule. Samples shall then be taken at the rate of not more than two (2) per week on separate days

WORK WATER VOLUME OF VARIOUS SIZED PIPELINES		
Date	Bacterial Count Per mL	Enforcement Action As Applied To A Standard of 20,000/mL
		within a three (3) week period in order to determine compliance with the appropriate standard as determined in accordance with Rule 420-3-16-.07 of these rules. (Refer to Rule 420-3-16-.04 of these Rules).
4/25/2013	11,000	No Action Required.
4/29/2013	3,000	No Action Required.
05/04/2013	22,000	Violative; No Action Required. <b>Note:</b> Samples collected prior to 04/23/2013 are not used for subsequent bacterial count enforcement purposes
05/09/2013	5,000	Permit fully reinstated.

TABLE 12

WORK WATER VOLUME OF VARIOUS SIZED PIPELINES		
Date	CONFIRMED SOMATIC CELL COUNTS PER mL	Enforcement Action As Applied To A Standard of 750,000/mL
07/10/2013	500,000	No Action Required
08/15/2013	600,000	No Action Required
10/01/2013	800,000	Violative; No Action Required
11/07/2013	900,000	Violative; Written notice to producer, two (2) of the last four (4) counts exceed the standard. (This notice shall be in effect as long as two [2] of the last four [4] consecutive samples exceed the standard). Additional sample required within twenty-one (21) days from the date of the notice, but not before the lapse of three (3) days.
11/14/2013	1,200,000	

WORK WATER VOLUME OF VARIOUS SIZED PIPELINES		
Date	CONFIRMED SOMATIC CELL COUNTS PER mL	Enforcement Action As Applied To A Standard of 750,000/mL
		<p>Violative (three [3] of the last five [5] counts exceed the standard);</p> <p>Required regulatory actions:</p> <ol style="list-style-type: none"> <li>1. Suspend producer permit; or</li> <li>2. Forego permit suspension, provided the milk in violation is not sold as Grade "A"; or</li> <li>3. Impose monetary penalty in lieu of permit suspension, provided the milk in violation is not sold or offered for sale as Grade "A" product. Except that a milk producer may be assessed a monetary penalty in lieu of permit suspension for violative counts provided: If the monetary penalty is due to a violation of the somatic cell count standard, the Health Officer shall verify that the milk supply is within acceptable limits as prescribed in Section 7 of these rules. Samples shall then be taken at the rate of not more than two (2) week on separate days within a three (3) week period in order to determine compliance with the appropriate standard as determined in accordance with Section 6 of these rules. (Refer to Section 3) <p><b>Note:</b> The option to issue a monetary penalty in lieu of a permit suspension, as cited in 3. Above, shall not be applicable to a TPC authorized under the ICP.</p> </li></ol>
11/18/2013	700,000	Issue temporary permit (if applicable) after sampling indicates the milk is within the standards prescribed in Rule 420-3-16-.08. Begin accelerated sampling schedule as cited under 11/14/2013
11/20/2013	800,000	<p>Violative; No Action Required</p> <p><b>Note:</b> Samples collected prior to 11/18/2013 are not used for subsequent somatic cell count enforcement purposes.</p>
11/24/2013	700,000	No Action Required.
11/29/2013	550,000	No Action Required.
12/03/2013	400,000	Permit fully reinstated.

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**Statutory Authority:** Code of Ala. 1975, §§22-2-2, 22-20-7.

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