902 KAR 50:090. Milk adulteration.

RELATES TO: KRS 217.005-217.215, 217.992, 217C.010-217C.990
STATUTORY AUTHORITY: KRS 194.050, 211.090
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Human Resources is directed by KRS 217C.040 to regulate the production, transportation, processing, handling, sampling, examination, grading, sale, and other matters relating to Grade A and manufacturing milk and milk products as may be necessary to protect the public health. This administrative regulation establishes enforcement procedures to prevent the sale of milk and milk products adulterated with antibiotics and other inhibitory substances, chemicals, and excessive water.

Section 1. Antibiotics and other Inhibitory Substances Enforcement Procedure. (1) Sampling procedure.
(a) Antibiotic tests shall be performed a minimum of four (4) times during any consecutive six (6) months on each milk producer or on raw commingled loads and all Grade A processed milk (except cultured products). When commingled milk is tested, all producers shall be represented in the sample.
(b) Any loads showing any level of antibiotics shall require individual producer's milk on the load to be tested.
(c) Utilization of milk on a load showing levels of antibiotics shall be as follows:
1. Loads showing levels of antibiotics below the acceptable standard of sixteen (16) mm zone size by the Bacillus stearothermophilus disk assay method, or any procedure approved in the 15th edition of "Standard Methods for the Examination of Dairy Products", may be accepted by the plant; however, each individual producer's milk on the load shall be tested, and any producer sample found to be positive shall be reported to the Milk Control Branch and confirmed later in writing (laboratory report). No additional milk shall be collected from that producer until enforcement procedures listed in this administrative regulation are complied with.
2. Loads testing positive (sixteen (16) mm zone size or greater) shall not be utilized by the company and shall be reported to the Milk Control Branch. Also, all producers' milk represented on the load shall be tested, and any producer sample found to be positive shall be reported to the Milk Control Branch and confirmed later in writing (laboratory report). No additional milk shall be collected from that producer until enforcement procedures listed in this administrative regulation are complied with.
3. Should a load be commingled into a plant storage tank with other loads and later found to be positive, the storage tank shall be tested and found to be negative prior to processing.
4. Intentional blending of loads found to be positive for antibiotics shall be prohibited.
5. Raw milk inadvertently processed and later found to be positive for antibiotics or other inhibitory substances shall be reported to the Milk Control Branch prior to shipment for sale. Each case will be handled individually and may require testing to determine if antibiotics are present which would prohibit sale.
(d) It is recommended that all loads of raw milk be screened for antibiotics and other inhibitory substances prior to receipt by the plant.
(2) Enforcement procedures.
(a) All loads found to be positive for antibiotics or other inhibitory substances prior to receipt by the plant shall not be received. All producer samples included in the load shall be tested, and the results of the load and producer samples reported to the Milk Control Branch by telephone as soon as possible and confirmed later in writing (laboratory report).
(b) No milk shall be collected from producers with a positive antibiotic test until the following conditions are met:

1. Producers with first antibiotic or other inhibitory substances violation during the past twenty-four (24) months shall require a negative sample to be obtained from the producer supply by a certified sample collector prior to the milk being collected by the hauler. The negative results shall be reported to the Milk Control Branch as soon as possible.

2. Producers with the second antibiotic or other inhibitory substances violation during the past twenty-four (24) months shall:

a. Be notified by the Milk Control Branch of the suspension by telephone and confirmed by letter. The letter confirming the suspension shall include an application for reinstatement of the permit.

b. Prior to an official sample being collected for reinstatement purposes, the producer shall request permit reinstatement in writing and indicate he believes the problem to have been corrected.

c. Require a representative of the Milk Control Branch to visit the producer dairy after the request for reinstatement is received and prior to the first official sample being taken. During this farm visit the producer shall demonstrate a method of marking cows treated which will assure milk from treated cows is not offered for sale. Upon acceptance of the exclusion procedure for treated cows, an official sample shall be collected and found to be negative for antibiotics prior to shipment. The first shipment shall not exceed limits listed in this administrative regulation.

d. After receipt of the written request for reinstatement and a farm visit by the Milk Control Branch, a sample of the producer's milk shall be collected by a certified sample collector and found to be free of antibiotics prior to the first shipment.

e. Milk collected on the first shipment shall not exceed four (4) milkings for Grade A purposes or six (6) milkings for manufacturing purposes.

3. Producers with more than two (2) antibiotic or other inhibitory substances violations during the past twenty-four (24) months shall:

a. Have their permits suspended in accordance with the provisions of paragraphs 2a and b of this subsection; and

b. May be required to attend a hearing with the Milk Control Branch and/or other representatives of the Department for Health Services to show cause why their permit should not be revoked.

(3) Company or producer association policy. Companies or producer associations having policies requiring producer penalties for offering milk for sale containing antibiotics or other inhibitory substances may have precedence over the enforcement policy outlined in this administrative regulation provided that:

(a) Policy is filed in writing with the Milk Control Branch.

(b) Policy is approved by the Milk Control Branch as being as or more stringent than the enforcement procedures listed in this administrative regulation.

(c) Evidence is forwarded in writing that company policy was carried out on each positive producer sample found.

(d) The procedures outlined in this administrative regulation apply to both Grade A milk and milk for manufacturing whose permits are suspended because of a positive antibiotic test shall not be allowed to ship milk to a manufacturing or Grade A plant until the procedures outlined in this administrative regulation have been complied with.

Section 2. Sale of Adulterated Milk (Excessive Water). (1) Milk producers whose supplies are found to contain over ten (10) percent excessive water shall be issued a notice requiring the supply to be withheld from sale immediately. Milk from this supply shall not be sold until a sample is collected by a certified sample collector, analyzed in a certified laboratory, and is negative for excessive water.

(2) Milk producers whose supplies are found to contain over two (2) percent to ten (10) percent excessive water shall be issued a notice of adulteration and resampled after the lapse of three (3) days. Should the resample continue to show over two (2) percent excessive water, the producer

shall be issued a notice requiring the supply to be withheld from sale immediately. Milk shall not be sold from this supply until a sample is collected by a certified sample collector, analyzed in a certified laboratory, and is negative for excessive water.

(3) Milk producers whose supplies are found to contain between five-tenths (.5) percent to two (2) percent excessive water shall be notified; and should the following sample show five-tenths (.5) percent to two (2) percent excessive water, a supervised sample shall be collected by an inspector or other authorized person. The supervised sample shall be used as a future reference point for the accurate freezing point for the supply.

(4) Repeated violation of any of these procedures listed in this administrative regulation may require permit suspension, a written request for reinstatement, and the resample to be collected by the inspector. Also, the sample shall be negative for excessive water prior to reinstatement of the permit.

Section 3. Procedures for Testing Milk Samples for Chemical Contaminants. (1) Samples will be collected and analyzed a minimum of annually from all bulk tank truck loads of raw milk representing Kentucky dairy producers and imported supplies from other states. Semiannual samples will be collected from loads having a previous history of chemical contaminants. Finished milk and milk products manufactured and sold within Kentucky will also be screened.

(2) Whenever a Kentucky inspected bulk tank load of raw milk is found to contain any level of a chemical contaminant, the individual milk producers represented on the load will be immediately notified by telephone, confirmed by letter, and individually sampled on a screening basis after notification. If out-of-state bulk tank loads are found to be contaminated, the shipping state regulatory agency will be immediately notified by telephone and confirmed in writing.

(3) Whenever laboratory results of an individual producer sample shows a violation of an established tolerance level for a particular chemical contaminant, the supply will be withheld from the market channels. Notice shall be by telephone and confirmed in writing. An additional follow-up confirming sample shall be collected within ten (10) working days after notification of exclusion.

(4) Continued sampling of an excluded milk producer's supply will be maintained until an acceptable level of the contaminant is attained. The frequency of additional sampling may be at seven (7), fifteen (15), thirty (30), or sixty (60) day intervals, depending on laboratory workload capabilities and levels found in the confirming sample and as experienced from previous test indicators. Higher levels will be sampled at lesser frequencies.

(5) Whenever levels based on an official sample fall below acceptable tolerance levels, the producer will be notified by telephone and confirmed in writing that the supply is again acceptable for sale.

(6) Producer assistance in testing individual cows, feeds, and water supplies may be obtained on an unofficial basis from the Kentucky Diagnostic Laboratories and commercial laboratories.

(7) The following procedure will be followed whenever any level of PCB's are found in a producer's supply:

(a) Whenever levels of PCB's are found in a producer's milk supply, a farm inspection shall be made to determine the type of silo(s) being used.

(b) All producers (showing levels of PCB's in their milk supply) having concrete silos coated with "cumar" or other sealers containing PCB's will be condemned for use with the dairy herd.

(c) The following options may be used by a producer with a condemned silo:

1. Abandon the silo (do not store feed).

2. Recoat the silo. If a silo is recoated, the producer shall notify the Milk Control Branch for approval prior to the silo being filled.

(d) Once a producer is notified that a silo(s) has been condemned, continued use of the silo may require immediate suspension of the milk supply whenever any level of PCB's are found by the regulatory agency.

(8) The producer's supply will be placed on a continuous surveillance program until a negative sample is obtained.

Section 4. The following material is integrated by reference:

(1) "Standard Methods for Examination of Dairy Products".

(2) A copy of the publication is available for inspection and copying, 8 a.m. until 4:30 p.m., at the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621. (11 Ky.R. 26; eff. 5-21-1984; 112; eff. 8-7-1984; 18 Ky.R. 1466; eff. 1-10-1992.)