

302 KAR 10:025. License application, refusal, revocation, suspension, and appeals.

RELATES TO: KRS 260.550, 260.560, 260.580, 260.600

STATUTORY AUTHORITY: KRS 260.560, 260.580

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.560 requires the department to administer all provisions and exercise all administrative powers in egg marketing law and authorizes the department to promulgate administrative regulations necessary to carry out the provisions of the egg marketing law. KRS 260.580 requires the department to prescribe reasonable administrative regulations setting up standards governing the form and schedule for processing applications for egg licenses, the determination of whether an application for license shall be granted or denied, and the grounds for the suspension and revocation of a license. This administrative regulation prescribes the grounds for refusal, revocation, or suspension of a license and for placing licensee on a probationary period and the process for appeals.

Section 1. License Application. Persons requiring licensure under KRS 260.550 shall apply to the Kentucky Department of Agriculture using forms Application for Retail License to Handle Eggs or Application for Wholesale Egg Handler License.

Section 2. Refusal to Grant License. An application for a license may be denied if the applicant has previously failed to comply with the egg marketing law as provided in KRS 260.540 to 260.560 and there is reason to believe that he or she will continue to refuse to comply with the law.

Section 3. Suspension of Licenses. If a licensee is found by an inspector to have sold or have eggs on hand for sale which have not been graded or classified properly, or have sold or offered eggs for sale which have not been handled in a manner as to maintain and preserve the quality and grade in which they were sold or offered for sale, or to have sold, offered or exposed for sale, or have in his or her possession for sale, for human consumption, eggs that are inedible, then the inspector may suspend the egg license of the licensee for a period not to exceed five (5) days. The inspector shall notify the suspended party of his or her administrative appellate rights. The inspector shall immediately notify the department of his or her action.

Section 4. Probationary Period. If a licensee is found by an inspector to have sold or have eggs on hand for sale which have not been candled, or which are of a lower grade than labeled, or to have sold or offered for sale eggs which have not been handled in a manner as to maintain and preserve the quality and grade in which they were sold or offered for sale, or have in his or her possession for sale, for human consumption, eggs that are inedible, then the inspector may place the licensee on probation for a period not to exceed ten (10) days. The inspector shall notify the licensee of the probation and inform him or her that unless he or she takes necessary corrective measures within this time period, then his or her license shall be suspended or revoked. The inspector shall immediately notify the department of his or her action.

Section 5. Revocation of Licenses. If a licensee is found by an inspector to have sold eggs or have eggs on hand for sale which have not been candled, or which are of a lower grade than labeled, or has failed to preserve the grade and quality of eggs for sale, or has sold, or offered or exposed for sale, or has in his or her possession for sale for human consumption eggs that are inedible, then the inspector may recommend to the department that the licensee's license be revoked.

Section 6. Appeals. All appeals of KDA determinations shall be done in accordance with KRS Chapter 13B.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for Retail License to Handle Eggs", June 2020; and

(b) "Application for Wholesale Egg Handler License", June 2020.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Egg Marketing Program, 107 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(46 Ky.R. 2359; 47 Ky.R. 59; eff. 7-9-2020.)