902 KAR 50:031. Standards for producer eligibility for manufactured grade milk.

RELATES TO: KRS 217.015, 217C.010, 217C.020, 217C.030, 217C.060, 217C.100, 217C.990, 7 C.F.R. Part 58 Subpart B

STATUTORY AUTHORITY: KRS 194A.050(1), 211.180(1)(c), 217C.040

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 211.180(1)(c) authorizes the cabinet to promulgate administrative regulations for the safe handling of food and food products. KRS 217C.040 authorizes the cabinet to promulgate administrative regulations for the issuance and revocation of permits for milk producers, haulers, transfer stations, processing plants, pasteurization plants, and distributors. This administrative regulation sets uniform standards for the production, handling, examination, grading, and sale of manufactured milk and milk products.

Section 1. Manufactured Milk Producer Permits and Inspections.

(1) Any person seeking to offer raw milk for manufacturing shall submit an Application for Permit to Sell Raw Milk for Pasteurization to the department.

(2) Prior to the issuance of a permit to a manufacturing milk producer, the cabinet shall conduct an inspection of the producer's facilities.

(3) If the producer is not in compliance with 902 KAR 50:032:

(a) A permit shall not be issued;

(b) The violation shall be given in writing; and

(c) The violation shall be posted in a visible place at the dairy farm.

(4) A permit shall be issued if the inspection reveals compliance with 902 KAR 50:032.

(5) All producers shall possess a valid permit prior to beginning shipment of milk.

(6) Permits shall:

(a) Be non-transferable with respect to persons or locations; and

(b) Remain valid unless suspended or revoked by the cabinet.

Section 2. Producer Eligibility Requirements.

(1) New producers.

(a) A test for bacterial quality and sediment shall be made in accordance with 7 C.F.R. 58.138 on the first shipment of milk or after a period of non-shipment for more than ten (10) days.

(b) Subsequent tests of milk shall meet the requirements for frequency of testing and producer compliance outlined in Section 3(7)(a) of this administrative regulation.

(2) Transfer producers.

(a) Prior to collection and acceptance of milk from a transfer producer, the receiving station shall review the official status of the producer with the cabinet.

(b) The existing status of a transfer producer with regard to farm sanitation and milk quality record shall be in effect with the receiving station.

(c) A producer whose permit has been suspended by the cabinet is not eligible to transfer until the permit has been reinstated, unless approved by the cabinet.

(d) The receiving station shall sample each transfer producer's milk within ten (10) days after receipt of the producer's first shipment of milk.

(e) Subsequent sample results shall be in accordance with the provisions of Section 3 of this administrative regulation.

(3) Grade A Producer.

(a) A Grade A producer whose permit has been suspended shall be allowed to sell milk as a degraded producer to a manufacturing milk company if the Grade A violative sample is within manufacturing standards set forth in this administrative regulation.

(b) A degraded producer shall not sell milk to a manufacturing milk company for a period in excess of ten (10) days without applying for and obtaining a milk for manufacturing producer permit.

(c) Grade A surplus milk shall be tested or screened by the manufacturing milk company upon arrival to ensure the milk is in compliance with this administrative regulation.

(d) Milking by hand shall be prohibited.

Section 3. Quality Requirements for Raw Milk.

(1) Classification of raw milk for manufacturing purposes shall be in accordance with 7 C.F.R. 58.132.

(2) Sight and odor testing shall be in accordance with 7 C.F.R. 58.133(a).

(3) Bacterial classification shall be in accordance with 7 C.F.R. 58.135.

(4) Sediment content classification shall be in accordance with 7 C.F.R. 58.134.

(5) Somatic cell count shall be in accordance with 7 C.F.R. 58.133(b).

(6) Drug residue classification shall be in accordance with 7 C.F.R. 58.133(c).

(7) Examinations and tests to detect excessive water, chemical contaminants, or other adulterants shall be conducted by the cabinet as required by the Food and Drug Administration and the United States Department of Agriculture.

(a) Frequency of tests.

1. Bacterial estimate: monthly.
2. Sediment content: monthly.
3. Abnormal milk: four (4) times each six (6) months.
4. Drug residues: all marketed manufacturing grade milk shall be sampled and tested for drug residues prior to processing.

(b) Quality tests in this section shall be performed in an official laboratory or an officially designated laboratory.

Section 4. Personnel Health and Cleanliness.

(1) All personnel involved in production of manufactured milk shall comply with:

(a) 7 C.F.R. 58.129, Cleanliness; and

(b) 7 C.F.R. 58.130, Health.

(2) If reasonable cause exists to suspect the possibility of transmission of infection from any person involved with the handling of milk for manufacturing purposes, the cabinet shall require the following measures:

(a) Immediate exclusion of that person from milk handling;

(b) Immediate exclusion of the milk supply concerned; and

(c) Medical and bacteriological examination of the person and body discharges.

Section 5. Prohibited Acts Relating to Manufactured Milk Producers. The following acts are prohibited:

(1) No person shall produce, sell, or offer for sale any manufactured milk or milk products without a permit as provided in 902 KAR 50:032, 902 KAR 50:033, and this administrative regulation.

(2) No person shall produce, provide, sell, offer, or expose for sale, or have in possession with intent to sell, any manufactured milk or milk product which is adulterated, misbranded, or in violation of 902 KAR 50:032, 902 KAR 50:033, or this administrative regulation.

(3) No person shall prohibit the inspection, taking of a sample, or access to records or evidence to a duly authorized agent of the cabinet.

(4) No person shall remove, destroy, alter, forge, or falsely represent any tag, stamp, mark, or label used by the cabinet.

(5) No person shall remove or dispose of a detained or quarantined article without proper authority from the cabinet.

(6) Milking by hand shall be prohibited.

Section 6. Survey Procedures.

(1) The department may conduct a survey at least one (1) time every two (2) years on all producers assigned to milk companies, producer associations, or producer groups.

(2) A producer, company, association, or group found to have an unsatisfactory rating shall be notified and given a reasonable period of time, not to exceed six (6) months, to attain a satisfactory rating.

(3) A producer who fails to receive an acceptable rating upon resurvey shall be inspected by the cabinet to determine individual compliance.

(4) A producer who fails a survey may have a permit suspended in accordance with 902 KAR 50:032, 902 KAR 50:033, and this administrative regulation.

(5) No producer shall be allowed to transfer to another company during the resurvey period unless authorized by the cabinet.

Section 7.

(1) The "Application for Permit to Sell Raw Milk for Pasteurization", 2/2020, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Milk Safety Branch, Division of Public Health Protection and Safety, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

(20 Ky.R. 2276; eff. 3-14-1994; 47 Ky.R. 439; eff. 11-19-2020.)