

902 KAR 50:050. Manufacturing plant requirements.

RELATES TO: KRS 211.090, 217C.010, 217C.070, 217C.990, 260.813, 7 C.F.R. 58 Subpart B

STATUTORY AUTHORITY: KRS 194A.050(1), 211.180(1)(c), 217C.040, 217C.060

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 requires the secretary to regulate, in the interest of the public health, all aspects relating to the production and sale of milk. KRS 217C.060 authorizes the cabinet to enter into reciprocal agreements with milk control officials of federal and state agencies having standards substantially equivalent to the regulations of the secretary. This administrative regulation establishes uniform sanitary and operational standards for manufactured milk plants, receiving stations, transfer stations, and handlers, and the process for issuance and revocation of permits.

Section 1. Permits and Inspections.

- (1) All persons desiring to operate a manufactured milk plant, receiving station, transfer station, or be a handler of manufactured milk, shall submit to the cabinet a "Plant Application for Permit".
- (2) A qualified representative of the cabinet shall inspect each plant, receiving station, and transfer station:
 - (a) Prior to issuance of a permit; and
 - (b) At least annually thereafter.
- (3) Only a person in compliance with the requirements of this administrative regulation shall be entitled to a permit.
- (4) A permit shall not be transferable with respect to persons or locations.
- (5) Manufactured milk and milk products from points beyond the limits of routine inspection of the Commonwealth of Kentucky, or its police jurisdiction, may be sold in the Commonwealth of Kentucky, or its police jurisdiction, if the milk or milk products are:
 - (a) Produced and processed under administrative regulations substantially equivalent to this administrative regulation; and
 - (b) The out-of-jurisdiction governmental unit concerned accepts Kentucky's manufactured milk and milk products on a reciprocal basis.
- (6) Properly prepared plans for transfer stations, receiving stations, and milk plants regulated under this administrative regulation that are constructed, reconstructed or extensively altered, shall be submitted to the cabinet for approval before work is begun.

Section 2. Standards for Manufactured Milk Plants, Receiving Stations, Transfer Stations, and Handlers.

- (1) All premises, buildings, facilities, equipment and utensils shall comply with 7 C.F.R. 58.125 through 128.
- (2) All personnel shall comply with:
 - (a) 7 C.F.R. 58.129 for cleanliness; and
 - (b) 7 C.F.R. 58.130 for health.
- (3) The transport of raw milk shall be in compliance with 7 C.F.R. 58.131 except that milk shall not be transported in milk cans.
- (4) Receiving stations shall comply with 7 C.F.R. 58.131(b)(1).
- (5) Transfer stations shall comply with 7 C.F.R. 58.131(b)(2).

Section 3. Prohibited Acts Relating to Manufactured Milk Plants, Receiving Stations, Transfer Stations, and Handlers. A person shall not:

- (1) Process, handle, provide, sell, offer or expose for sale, or have in possession with intent to sell a milk or milk product for manufacturing purposes which is adulterated, misbranded or otherwise in violation of this administrative regulation;
- (2) Prohibit, to a duly-authorized agent of the cabinet:
 - (a) Entry or inspection;
 - (b) The taking of a sample; or
 - (c) Access to records or evidence;
- (3) Remove, destroy, alter, forge or falsely represent a tag, stamp, mark, or label used by the cabinet; or
- (4) Remove or dispose of a detained or quarantined article without proper authorization from the cabinet.

Section 4. Manufactured Milk Plant, Receiving Station, Transfer Station and Handler Permit Suspension and Reinstatement.

- (1) In addition to the penalties established in KRS 217C.990, the cabinet may suspend or revoke a permit issued under this administrative regulation.
- (2) The cabinet shall, upon notice to the permit holder, immediately suspend the permit if:
 - (a) There is reason to believe that an imminent public health hazard exists;
 - (b) The permit holder or an employee has interfered with the cabinet in the performance of the cabinet's duties; or
 - (c) The permit holder or an employee has falsified any records or documents.
- (3) In all other instances of violation of this administrative regulation, the cabinet shall:
 - (a) Serve on the permit holder a written notice stating the violation; and
 - (b) Afford the permit holder a reasonable opportunity to correct the violation.
- (4) A permit holder whose permit has been suspended may, at any time, submit an "Application for Reinstatement of Permit", incorporated by reference in 902 KAR 50:033.
- (5) Suspension of a permit shall remain in effect until the violation has been corrected to the satisfaction of the cabinet.
- (6) For serious or repeated violations of this administrative regulation the permit may be permanently revoked.
- (7) Prior to revocation, the cabinet shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising the permit shall be permanently revoked at the end of ten (10) days following the service of the notice, unless the "Request for a Hearing", incorporated by reference in 902 KAR 50:033, is filed with the Milk Safety Branch.

Section 5. Trade Secrets. A person who, in an official capacity, obtains under the provisions of this administrative regulation, information which is entitled to protection as a trade secret, including information as to quantity, quality, source of disposition of milk or milk products, or results of an inspection or test, shall not use the information to his own advantage or reveal it to an unauthorized person.

Section 6. Incorporation by Reference.

- (1) "Plant Application for Permit", 1/2020, 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.

(FDC 14-1; 1 Ky.R. 288; eff. 1-8-1975; 5 Ky.R. 263; eff. 11-1-1978; 12 Ky.R. 1913; eff. 7-2-1986; 18 Ky.R. 1463; eff. 1-10-1992; 29 Ky.R. 2771; 30 Ky.R. 286; eff. 8-13-2003; 47 Ky.R. 576; eff. 12-15-2020.)