

902 KAR 50:080. Standards of identity and labeling requirements.

RELATES TO: KRS 217.035, 217.037, 217C.030, 217C.060, 217C.990, 21 C.F.R. Parts 101, 131, 133, 135, 166

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 requires the cabinet adopt rules and regulations regulating the labeling, standards of identity, sale and other matters relating to milk and milk products as may be necessary to protect the public health. This administrative regulation establishes uniform standards for identifying and labeling Grade A pasteurized milk and milk products sold in Kentucky.

Section 1. Labeling and Identification Requirements.

- (1) All Grade A pasteurized milk and milk products offered for sale or sold in this state shall be labeled in accordance with 21 C.F.R Part 101.
- (2) Milk, cream, and yogurt shall be identified in accordance with 21 C.F.R. Part 131.
- (3) Cheese and related cheese products shall be identified in accordance with 21 C.F.R. Part 133.
- (4) Frozen desserts shall be identified in accordance with 21 C.F.R. Part 135.
- (5) Margarine shall be identified in accordance with 21 C.F.R. Part 166.

Section 2. Use By Date Required.

- (1) No person shall sell or offer for sale any Grade A pasteurized milk or milk product in this state in a consumer package that does not bear the use by date as required by this administrative regulation.
- (2) The use by date shall:
 - (a) Be in a form that is conspicuous, legible, and understandable;
 - (b) Be boldface print in contrast to the background, by typography, color, embossing, debossing, molding, or other manner on the package;
 - (c) Be placed on the part of the container most likely to be displayed for retail sale; and
 - (d) Not interfere with legibility of other mandatory labeling requirements of the product.
- (3) The use by date shall be expressed:
 - (a) By the first three (3) letters of the month followed by or preceded by the numeral or numerals constituting the appropriate calendar date; or
 - (b) Numerically by the number of the month preceding the number of the day.

Section 3. Certification of Use By Date Required.

- (1) Each distributor or processor manufacturing, processing, or packaging Grade A pasteurized milk and milk products for sale within this state shall:
 - (a) Comply with the provisions of this administrative regulation;
 - (b) Certify to the cabinet the use by date for each product; and
 - (c) Provide the cabinet with the research data used to support the product use by date certification request.
- (2) Samples of products for use by date evaluation may be obtained at processing plants, delivery trucks, distributors, or from retail outlets. The temperature and use by date shall be officially recorded at the time of sample collection.

Section 4. Enforcement.

- (1) No milk or milk products shall be offered for sale as a Grade A product after the expiration of the use by date shown on the container.

(2) All milk and milk products offered for sale after the expiration of the use by date shall be deemed to be misbranded.

(3) If a product is not sold within the period specified by the use by date, the product shall be returned to the milk plant of origin for destruction.

(MMP-6; 1 Ky.R. 293; eff. 1-8-1975; 20 Ky.R. 2222; eff. 3-14-1994; 47 Ky.R. 579; eff. 12-15-2020.)