

**902 KAR 45:180. Permits and fees for food processing plants, food storage warehouses, salvage processors and distributors, cosmetic manufacturers, and certificate of free sale.**

RELATES TO: KRS 217.015, 217.025, 217.035, 217.037, 217.085, 217.095, 217.155, 21 C.F.R. Parts 113, 114, 120, 123

STATUTORY AUTHORITY: KRS 217.125(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217.125(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act. KRS 217.125(2) requires the secretary to provide by administrative regulation a schedule of reasonable fees to be paid by food processing plants, food storage warehouses, salvage distributors, salvage processing plants, and cosmetic manufacturers for permits to operate and for inspection activities carried out by the cabinet. This administrative regulation establishes the schedule of fees.

**Section 1. Definitions.**

- (1) "Ready-to-eat" means food that is in a form that is edible without washing, cooking, or additional preparation by the food plant or the consumer to achieve food safety, and is expected to be consumed in that form.
- (2) "Specialized processes" means foods processed under 21 C.F.R. Parts 113, 114, 120, or 123.

**Section 2. Classification.** Food processing and storage facilities shall be classified by the highest risk level of the food processed or stored.

- (1) A facility shall be classified as a high risk food plant or risk level 1 if the facility:
  - (a) Is engaged in international, interstate, statewide, or regional distribution; and
  - (b) Uses one (1) or all of the following manufacturing processes:
    1. Time and temperature controlled foods that are ready-to-eat;
    2. High risk foods that are considered ready-to-eat; or
    3. Foods that require specialized processes to decrease risk potential.
- (2) A facility shall be classified as a medium risk food plant or risk level 2 if the facility processes foods that are either ready-to-eat foods or potentially hazardous foods, but not both.
- (3) A facility shall be classified as a low risk food plant or risk level 3 if the facility processes foods that are not time and temperature controlled.

**Section 3. Fees.**

- (1) A permit fee shall be required for inspections conducted by the cabinet or the local health department to determine compliance with:
  - (a) 902 KAR 45:080 for a salvage distributor or a salvage processing plant;
  - (b) KRS 217.025, 217.035, and 217.037 for a food processing plant or food storage warehouse; or
  - (c) KRS 217.085 and 217.095 for a cosmetic manufacturer.
- (2) The fee for the inspection of a food processing plant, storage warehouse, or salvage processing facility shall be:
  - (a) Assessed according to the:
    1. Total square footage of the facility; and
    2. Highest risk level of commodity manufactured by or stored at the facility; and
  - (b) Calculated as established in this paragraph.
    1. If the facility is between zero to 1,000 square feet, the fee:
      - a. For risk level 1 shall be \$135;
      - b. For risk level 2 shall be \$130; or

- c. For risk level 3 shall be \$125.
  2. If the facility is between 1,001 to 5,000 square feet, the fee:
    - a. For risk level 1 shall be \$190;
    - b. For risk level 2 shall be \$180; or
    - c. For risk level 3 shall be \$170.
  3. If the facility is between 5,001 to 20,000 square feet, the fee:
    - a. For risk level 1 shall be \$350;
    - b. For risk level 2 shall be \$300; or
    - c. For risk level 3 shall be \$250.
  4. If the facility is between 20,001 to 40,000 square feet, the fee:
    - a. For risk level 1 shall be \$500;
    - b. For risk level 2 shall be \$450; or
    - c. For risk level 3 shall be \$400.
  5. If the facility is between 40,001 to 80,000 square feet, the fee:
    - a. For risk level 1 shall be \$600;
    - b. For risk level 2 shall be \$550; or
    - c. For risk level 3 shall be \$500.
  6. If the facility is between 80,001 to 150,000 square feet, the fee:
    - a. For risk level 1 shall be \$750;
    - b. For risk level 2 shall be \$700; or
    - c. For risk level 3 shall be \$650.
  7. If the facility is greater than 150,000 square feet, the fee:
    - a. For risk level 1 shall be \$1,000;
    - b. For risk level 2 shall be \$900; or
    - c. For risk level 3 shall be \$800..
- (3) A fee for the inspection of a cosmetic manufacturer shall be \$125.
- (4) A request for a certificate of free sale or export authorizing a Kentucky food processing plant holding a valid permit to operate to export a product outside of the United States shall be accompanied by a service fee of fifty (50) dollars for each certificate requested.
- (5) Fees shall be made payable to the Kentucky State Treasurer and forwarded to the Kentucky Department for Public Health, Food Safety Branch, 275 East Main Street, Frankfort, Kentucky 40621.
- (47 Ky.R. 231; 1050; 1590; eff. 2-11-2021.)