

Rules and Regulations for Implementation of the Kentucky Farm Milk Handlers Law

12 KAR 5:010. Licenses.

RELATES TO: KRS 260.775 to 260.845, 260.992

STATUTORY AUTHORITY: KRS 260.825(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.825(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 260.775 to 260.845 regarding milk. This administrative regulation establishes a procedure to license a person or entity who is qualified as a milk handler, laboratory, sampler-weigher, tester, or transfer station.

Section 1. (1) License to handle milk, laboratory license, and transfer station license. Upon receipt of an accurately-completed application with fee as required by KRS 260.815, and if the applicant is deemed to be qualified and in compliance with KRS 260.775 to 260.845, the director may issue a license to handle, laboratory license, or transfer station license. Each license shall be displayed accordingly:

(a) A current license to handle milk shall be prominently displayed at each handling location;

(b) A current laboratory license shall be prominently displayed at each laboratory location; and

(c) A current transfer station license shall be prominently displayed at each transfer station location.

(2) Temporary license to sample and weigh milk. Upon receipt of an accurately-completed application with fee as required by KRS 260.815, and if the applicant is deemed to be qualified and in compliance with KRS 260.775 to 260.845, the director may issue a 120-day, temporary license to sample and weigh milk. A temporary license may only be reissued if a person does not pass the written examination requirement of paragraph (b) of this subsection.

(a) A person issued a temporary license to sample and weigh milk shall be provided informational material by the director to notify him of proper sampling and weighing procedures. He shall become familiar with the informational material and shall perform the procedures under the supervision of a licensed sampler-weigher until a supervisor believes he is competent of proper procedures. When he has become familiar with and complies with proper procedures, he may sample and weigh milk without immediate supervision. He shall carry the temporary license to sample and weigh when sampling and weighing milk.

(b) A person issued a temporary license to sample and weigh milk shall be scheduled for and required to attend a one (1) day training school and take a written examination administered by the director. Upon scoring a minimum of seventy (70) percent on the written examination, a license to sample and weigh milk may be issued. The person shall carry the license to sample and weigh when sampling and weighing milk.

(3) Temporary license to test milk. Upon receipt of an accurately-completed application with fee as required by KRS 260.815, and if the applicant is deemed to be qualified and competent and in compliance with KRS 260.775 to 260.845, the director may issue a 120-day temporary license to test milk. A temporary license may only be reissued if a person does not pass the written examination requirement of paragraph (b) of this subsection.

(a) A person issued a temporary license to test milk shall be provided informational material by the director to notify him of proper testing procedures. He shall become familiar with the informational material and shall perform the testing procedures for which he seeks approval under the supervision of a licensed tester until a supervisor believes he is competent of proper procedures. When he has become familiar with and complies with proper procedures, he may test milk without immediate supervision. A person shall conspicuously post the temporary license to test in the laboratory where testing is performed or carry the temporary license to test when he is testing milk.

(b) A person issued a temporary license to test milk shall demonstrate competency in milk testing procedures for which he seeks approval to the director and shall take a written examination administered by the director. Upon demonstrating competency and scoring a minimum of seventy (70) percent on the written exam, a license to test milk may be issued. The milk tester shall conspicuously post the license to test in the laboratory where testing is performed or carry the license to test when he is testing milk.

Rules and Regulations for Implementation of the Kentucky Farm Milk Handlers Law

1 (4) Renewal for a license to sample and weigh and renewal for a license to test. Upon receipt of
2 an accurately-completed renewal application with fee as required by KRS 260.815, and if the applicant
3 is deemed by the director to be in compliance with KRS 260.775 to 260.845, the director may issue
4 a renewed license to sample and weigh or a renewed license to test. An applicant may renew a lapsed
5 license for up to three (3) years past the expiration date by paying back-fees for each year and one
6 (1) penalty fee provided for in KRS 260.992(3).

7 (5) All licenses issued under the authority of KRS 260.775 to 260.845 shall expire on June 30 of
8 each year. The licenses shall be renewed on or before July 1 by accurately completing and submitting
9 an application with the appropriate fee to the director. Applications shall be provided by the director.

10 (6) Reciprocity. The director may reciprocate with other states and issue a license to sample and
11 weigh or a license to test upon submission of satisfactory evidence that the requirement for licensure
12 in the other state is equivalent to the requirements of KRS 260.775 to 260.845. The director may
13 require an applicant for reciprocity to pass an examination to establish his competency. Applicants for
14 reciprocity shall be required to submit an accurately-completed application with fee to the director.

15
16 Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

17 (a) "Application for License to Handle Milk", October 2000, Division of Regulatory Services;

18 (b) "Application for Laboratory License", October 2000, Division of Regulatory Services;

19 (c) "Application for Transfer Station License", October 2000, Division of Regulatory Services;

20 (d) "Application for Temporary License to Sample and Weigh Milk", October 2000, Division of
21 Regulatory Services;

22 (e) "Application for Temporary License to Test Milk", October 2000, Division of Regulatory Services;

23 (f) "Renewal Application for License to Sample and Weigh Milk", October 2000, Division of Regu-
24 latory Services; and

25 (g) "Renewal Application for License to Test Milk", October 2000, Division of Regulatory Services.

26 (2) These materials may be inspected, copied or obtained, subject to copyright law, at the Division
27 of Regulatory Services, College of Agriculture, 103 Regulatory Services Building, University of Ken-
28 tucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m. (AES-CL 14, 15,
29 16; 1 Ky.R. 1232; eff. 7-2-75; Am. 15 Ky.R. 1118; eff. 11-23-88; 27 Ky.R. 1849; 2417; eff. 3-19-2001.)
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33 **12 KAR 5:020. Testing.**

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35 RELATES TO: KRS 260.775 to 260.845, 260.992

36 STATUTORY AUTHORITY: KRS 260.825(1)

37 NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.825(1) authorizes the Director of the
38 Kentucky Agricultural Experiment Station to promulgate administrative regulations necessary for the
39 effective enforcement of KRS 260.775 to 260.845 regarding milk. This administrative regulation estab-
40 lishes uniform standards and approved procedures and equipment for the analysis of milk components
41 by licensed laboratories and testers.
42

43 Section 1. Laboratory Facilities and Equipment. (1) A licensed laboratory's facilities shall meet the
44 criteria described in Chapter 2.3 of "Standard Methods for the Examination of Dairy Products", 16th
45 Edition, 1992.

46 (2) A licensed laboratory shall have established procedures for monitoring equipment performance
47 and preventative maintenance. Specialized instrumentation shall be operated by the manufacturer's
48 recommended procedures for operation and maintenance. Adequate records to document equipment
49 performance monitoring and maintenance shall be kept. As applicable, equipment and supplies used
50 by laboratories shall meet the criteria described in Chapter 2.4 of "Standard Methods for the Examina-
51 tion of Dairy Products", 16th Edition, 1992.
52

Rules and Regulations for Implementation of the Kentucky Farm Milk Handlers Law

1 Section 2. Approved Testing Methods. (1) A laboratory and tester licensed by the director shall be
2 approved for the methods of analysis routinely used for milk component testing. If the laboratory and
3 tester are approved for an electronic method of analysis, they shall also be approved for any intralabo-
4 ratory reference method used to monitor the electronic equipment.

5 (2) Methods of analysis used for testing milk samples for pay purposes or as reference methods
6 include:

7 (a) Methods in "Official Methods of Analysis of AOAC International", Volume II, Chapter 33, 17th
8 Edition, 2000;

9 (b) Methods in "Standard Methods for the Examination of Dairy Products", 16th Edition, 1992; and

10 (c) Methods of analysis scientifically proven to be acceptable and approved by the director.

11
12 Section 3. Electronic Equipment. (1) Laboratories using electronic milk testing equipment associ-
13 ated with approved procedures shall maintain the following supplies and records:

14 (a) A thermostatically-controlled, circulatory water-bath of suitable size to maintain milk samples
15 in a temperature range of 40-43⁰ C (104-109.4⁰ F). A milk sample being warmed in the water-bath shall
16 not:

- 17 1. Remain in the water-bath in excess of forty (40) minutes prior to being tested; or
- 18 2. Be tested for payment purposes if the sample "oils off" while in the water-bath; and

19 (b) An approved electronic component testing instrument including:

- 20 1. All required accessories and reagents; and
- 21 2. An instrument operation manual.

22 (2) Control samples. A minimum of four (4) control samples of unhomogenized milk shall be ana-
23 lyzed daily before routine testing begins. The control samples shall cover the component ranges of
24 samples typically analyzed with the instrument. Control samples for milk fat analysis shall be in the fat
25 range of two (2) to six (6) percent.

26 (a) The control samples shall be prepared and test results determined for each component tested
27 for pay purposes by recognized procedures or those procedures approved by the director.

28 (b) Control samples shall be physically handled in a manner to ensure their integrity and stored in
29 a temperature range of 0.5-4.4⁰C (33-40⁰ F). Control samples to be stored more than seventy-two (72)
30 hours shall be preserved with an approved preservative. Control samples shall be discarded if they
31 appear to be churned, "oiled off" or spoiled.

32 (3) Daily performance checks. Written procedures shall be established to monitor electronic milk
33 testing equipment for accuracy each day before testing begins. Minimum requirements for these
34 procedures include:

35 (a) Zero check. Zero the machine for all components as prescribed by the instrument manufacturer.
36 Run a single, unhomogenized milk sample through the machine at least eleven (11) times. Zero the
37 machine again. Within two (2) cycles the instrument shall not deviate greater than 0.02 percent units
38 from the original zero reading.

39 (b) Repeatability check. Ten (10) consecutive readings on a single, well-mixed, unhomogenized
40 milk sample shall be made for each component being tested for pay purposes. The repeatability check
41 shall be acceptable when the comparison range of ten (10) consecutive readings is within ± 0.04 percent
42 units for each of these components. The sample used between the zero checks in paragraph (a) of
43 this subsection may be used for the repeatability check.

44 (c) Accuracy check. A subsample from each of the control samples shall be analyzed to obtain
45 readings for each component tested for pay purposes. These results shall not differ from the control
46 sample by more than ± 0.09 percent units for total solids and ± 0.05 percent units for each other com-
47 ponent when compared to the established values of the control samples.

48 (d) Hourly check. An accuracy check as described in paragraph (c) of this subsection shall be
49 analyzed on at least one (1) sample each hour during which samples are tested for pay purposes.

50 (e) Electronic instruments not meeting the prescribed testing criteria shall not be used to test
51 permitted producer's samples for pay purposes. Deficiencies shall be investigated and corrective
52 action taken. A record of any corrective action shall be maintained for two (2) years.

Rules and Regulations for Implementation of the Kentucky Farm Milk Handlers Law

1 (4) Calibration requirements.

2 (a) Electronic instrument calibrations shall be required when:

3 1. The instrument is installed or significantly moved;

4 2. The daily performance checks fail and cannot be corrected by other means; and

5 3. When any part that may affect proper operation of the instrument has been replaced, rebuilt, or
6 adjusted.

7 (b) A calibration shall be evaluated for accuracy:

8 1. At regular intervals not to exceed a thirty (30) day period; and

9 2. Using a minimum of eight (8) milk samples that shall cover the component ranges of samples
10 typically analyzed with the instrument. These samples shall be in the milk fat range of two (2) to six
11 (6) percent.

12 (c) Electronic instruments shall be calibrated according to the manufacturer's instructions using milk
13 samples with known component values as determined by an approved reference method. Laboratories
14 may use approved, commercially-prepared calibration samples in lieu of preparing their own reference
15 calibration samples.

16
17 Section 4. Wild Tests. (1) A "wild" test is defined as a test result for a producer's bulk-tank milk
18 sample that is dissimilar to other test results for the producer during the pay period and for which the
19 cause of the difference(s) cannot be determined.

20 (2) Each laboratory shall have written specifications for determining a "wild" test. Specifications for
21 "wild" tests shall not exceed 0.50 percent units when comparing milk fat test results between or among
22 samples for a permitted producer.

23 (3) "Wild" tests shall not be used for pay purposes and shall be conspicuously identified within
24 laboratory test records.

25
26 Section 5. Check Samples. Periodically, the director may provide check samples to a licensed
27 laboratory for test result comparisons and monitoring purposes. A licensed tester at the laboratory shall
28 test each sample for components used for pay purposes using approved methods routinely utilized
29 by the tester. The tester's results shall be provided to the director within three (3) working days of
30 receipt of the samples. The licensed laboratory is responsible for returning all check sample shipping
31 containers and equipment to the director.

32
33 Section 6. Laboratory Records. (1) Laboratory records shall be kept in a manner consistent with
34 12 KAR 5:070, Section 2, and shall be retained for a two (2) year period.

35 (2) Equipment records. Records of the operation and maintenance of each electronic instrument
36 shall include:

37 (a) Maintenance records;

38 (b) Daily performance check records; and

39 (c) Complete calibration records.

40 (3) Test records. All records of tests to be used for pay purposes shall be original and recorded as
41 tests are conducted.

42 (a) Records of retests and special tests shall be conspicuously identified.

43 (b) A licensed tester shall be responsible for the accuracy of test records for samples he tests for
44 pay purposes.

45
46 Section 7. Sample Age. A permitted producer's sample being tested for pay purposes shall be
47 tested within seventy-two (72) hours from the time of procurement, as identified on the sample con-
48 tainer, unless the sample is preserved with an approved preservative.

49
50 Section 8. Hours of Operation. A licensed laboratory that is not open during the normal business
51 hours of Monday through Friday, 8 a.m. to 4:30 p.m. shall submit a monthly testing schedule to the
52 director one (1) month in advance.

Rules and Regulations for Implementation of the Kentucky Farm Milk Handlers Law

1 Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:
2 (a) "Official Methods of Analysis of AOAC International", Volume II, Chapter 33, 17th Edition, 2000;
3 and
4 (b) "Standard Methods for the Examination of Dairy Products", 16th Edition, 1992.
5 (2) These materials may be inspected, copied or obtained, subject to copyright law, at the Division
6 of Regulatory Services, College of Agriculture, 103 Regulatory Services Building, University of Ken-
7 tucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m. (AES-4, CL-13,
8 19, 25; 1 Ky.R. 1233; eff. 7-2-75; Am. 11 Ky.R. 612; eff. 11-13-84; 15 Ky.R. 1118; eff. 11-23-88; 27 Ky.R.
9 1850; 2418; eff. 3-19-2001.)

12 KAR 5:030. Test samples.

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16 RELATES TO: KRS 260.775 to 260.845, 260.992

17 STATUTORY AUTHORITY: KRS 260.825(1)

18 NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.825(1) authorizes the Director of the
19 Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient
20 enforcement of KRS 260.775 to 260.845 regarding milk. This administrative regulation establishes
21 criteria and procedures for the physical handling and storage of milk samples that will be tested for
22 payment purposes.

23
24 Section 1. Producers' milk samples to be tested for payment purposes shall at all times be under
25 the care of, and only be physically handled by, a licensed sampler-weigher or a licensed tester.

26 (1) The license requirement for the physical handling of milk samples to be tested for payment
27 purposes excludes the shipping of samples via a commercial carrier. In such cases, the samples shall
28 be packaged, the shipping container sealed, and unpacked by licensed sampler-weighers or licensed
29 testers; and

30 (2) Milk samples shall be physically handled, stored, and shipped in a manner to maintain their
31 integrity. The sample shall be maintained in a temperature range of 0.5-4.4⁰C (33-40⁰ F).

32
33 Section 2. Milk-receiving stations, laboratories, transfer stations, and processors shall provide
34 adequate storage for milk samples.

35 (1) These locations shall provide a minimum storage capacity for samples typically representing
36 three (3) days bulk-milk shipments; and

37 (2) Sample storage refrigerators shall be monitored daily with an accurate thermometer to ensure
38 the proper temperature. The monitoring shall be documented with:

39 (a) A recording device; or

40 (b) A licensed sampler-weigher or licensed tester who shall keep a daily record that includes:

41 1. Date;

42 2. Time (including a.m. or p.m.);

43 3. Temperature; and

44 4. The sampler-weigher's or tester's initials. (AES-CL 13, 17, 23; 1 Ky.R. 1233; eff. 7-2-75; Am. 11
45 Ky.R. 613; eff. 11-13-84; 15 Ky.R. 1120; 1456; eff. 11-23-88; 27 Ky.R. 1853; eff. 3-19-2001.)

50 12 KAR 5:040. Sampling and weighing.

51
52 RELATES TO: KRS 260.775 to 260.845, 260.992

53 STATUTORY AUTHORITY: KRS 260.825(1)

54 NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.825(1) authorizes the Director of the
55 Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient

Rules and Regulations for Implementation of the Kentucky Farm Milk Handlers Law

1 enforcement of KRS 260.775 to 260.845 regarding milk. This administrative regulation establishes
2 procedures for milk sampler-weighers for accurately sampling and weighing milk in farm bulk tanks.
3

4 Section 1. Each bulk farm tank is required to be separately sampled and weighed. If a producer has
5 multiple bulk farm tanks, samples and weights shall be obtained for each tank and the information
6 recorded separately in the sampler-weigher's records.
7

8 Section 2. Sampler-weigher Equipment. A sampler-weigher shall use the following equipment in
9 his sampling and weighing procedures:

10 (1) A sample case shall:

11 (a) Be rigidly constructed and insulated for safe transportation of the samples;

12 (b) Have ample space to hold samples;

13 (c) Maintain a refrigerant that is needed to cool and maintain the samples at a temperature range
14 of 0.5-4.4⁰ C (33-40⁰ F);

15 (d) Contain a rack or float to keep the samples in an upright position and to keep the neck and the
16 top of each sample container above the surface of the cooling medium; and

17 (e) Maintain a refrigerant at the level of the milk in the sample containers.

18 (2) Sample containers shall be clean, dry, and sterile. Sample vials shall have leak-proof caps and
19 may be made of glass or molded, rigid plastic. Approved plastic bags may also be used. The sample
20 containers shall hold a minimum of one (1) ounce of milk and provide sufficient air space for process-
21 ing the sample in the laboratory;

22 (3) A sample dipper or other sampling device of sanitary construction. The sampling device shall
23 be stored in a receptacle containing a sanitizing solution. Both the sampling device and the sanitizing
24 solution shall be approved by the Milk Safety Branch of the Cabinet for Health Services;

25 (4) An accurate dial or digital thermometer;

26 (5) A waterproof, indelible marker to write information on sample containers;

27 (6) A watch to time the agitation of the milk in the bulk tank prior to sampling;

28 (7) An indelible pen to complete the necessary paperwork; and

29 (8) An adequate supply of bulk milk delivery tickets.
30

31 Section 3. Weighing Procedures. When measuring milk volume in farm bulk tanks with a gauge rod
32 inside the tank or an external scale plate with gauge tube on the outside of the tank, the milk shall be
33 motionless. A sampler-weigher shall:

34 (1) Use the following procedures for measuring milk with a gauge rod on the inside of a bulk tank:

35 (a) Remove any milk foam from the measurement area by pushing it aside with the rod;

36 (b) Remove any milk residue from the rod by wiping the rod with a clean, single-service towel. If
37 the milk residue cannot be removed by this method, rinse the rod in warm (not hot) water and again
38 wipe the rod with a single-service towel;

39 (c) Lower the gauge rod slowly straight down until it reaches a point approximately one-quarter
40 (1/4) inch above its base. Hold the rod in this position for a moment and then ease it down until it seats
41 firmly and naturally in its base;

42 (d) Raise the gauge rod and immediately read it in a well-lighted area at eye level;

43 (e) The gauge rod shall be read to the nearest graduation mark on the rod. If the reading is exactly
44 half-way between two (2) graduation marks, read to the nearest even mark; and

45 (f) Repeat the gauge rod reading until two (2) readings are in agreement and record the reading.

46 (2) Use the following procedures for measuring milk with an external scale plate and gauge tube
47 on the outside of a bulk milk tank:

48 (a) If milk is in the external scale plate's gauge tube, it shall be drained and refilled with cold milk.
49 The tube shall be clean and dry prior to filling it with milk;

50 (b) To fill the gauge tube, open the outlet valve slowly to prevent foaming of milk as it fills the tube;

51 (c) After the milk from the bottom of the tank fills the tube, read the highest point of the center of
52 the milk's meniscus as the measuring point to compare to the scale plate;

53 (d) The scale plate shall be read to the nearest graduation mark. If the reading is exactly half-way
54 between two (2) graduation marks, read to the nearest even mark; and

Rules and Regulations for Implementation of the Kentucky Farm Milk Handlers Law

1 (e) Repeat the scale plate and gauge tube reading until two (2) readings are in agreement and
2 record the reading.

3 (3) Promptly convert the volume reading of the bulk milk tank to milk weight using the tank's con-
4 version chart. The conversion should be repeated until two (2) conversions are in agreement. Record
5 the milk weight.

6 (4) Procedures for weighing farm bulk milk in tanks that are not equipped with a gauge shall be
7 approved by the director.

8
9 Section 4. Sampler-weigher Records. A sampler-weigher shall prepare and account for records
10 pertaining to milk he samples and weighs.

11 (1) Sampler-weigher records shall include;

12 (a) Bulk milk delivery tickets;

13 (b) Producer barn charts;

14 (c) Information recorded on sample containers; and

15 (d) Any other record relating to bulk milk sampling and weighing activities.

16 (2) All records relating to sampler-weigher's daily activities shall be legible and written in indelible
17 ink. Changes or corrections to records shall be made by drawing a single line through the entry and
18 writing the correction nearby. Any changes or corrections shall be dated and initialed.

19 (3) Bulk milk delivery tickets shall accompany all loads of milk to milk-receiving stations, transfer
20 stations, and processors and shall include the following information:

21 (a) Identification of the handler;

22 (b) Identification of the milk-receiving station, transfer station, or processor;

23 (c) Date of collection;

24 (d) Producer identification (and tank identification if the producer has multiple tanks);

25 (e) Time of pickup (including a.m. or p.m.);

26 (f) Temperature of the milk;

27 (g) Milk volumetric reading;

28 (h) Converted milk weight;

29 (i) Any comments related to unusual circumstances; and

30 (j) Sampler-weigher's signature.

31 (4) A sampler-weigher shall record the following information on producer barn charts for each tank
32 sampled and weighed:

33 (a) Date;

34 (b) Time (including a.m. or p.m.);

35 (c) Milk temperature;

36 (d) Milk volumetric reading;

37 (e) Converted milk weight; and

38 (f) Sampler-weigher's signature or initials.

39 (5) If more than one (1) sampler-weigher samples and weighs producers' milk for one (1) truckload,
40 each sampler-weigher shall sign the bulk milk delivery ticket, regardless of who delivers the load to
41 the milk-receiving station, transfer station, or processor.

42
43 Section 5. Sampling Procedures. A sampler-weigher shall use the following procedures to obtain
44 a representative sample from a producer's standard farm bulk tank:

45 (1) Each sample container shall be permanently marked with waterproof, indelible ink and shall be
46 identified with the following information:

47 (a) Producer identification (and tank identification if the producer has multiple tanks);

48 (b) Date;

49 (c) Time (including a.m. or p.m.);

50 (d) Milk temperature; and

51 (e) Sampler-weigher's initials.

52 (2) Milk in the bulk tank shall be agitated sufficiently to provide a homogenous blend and to obtain
53 a representative sample. A minimum of five (5) minutes of agitation time is required for tanks with less
54 than a 1000 gallon capacity. Tanks with a 1000 gallon capacity or larger shall be agitated a minimum
55 of ten (10) minutes;

Rules and Regulations for Implementation of the Kentucky Farm Milk Handlers Law

1 (3) To eliminate moisture and sanitizing solutions, the sampling device shall be rinsed with milk at
2 least twice prior to taking samples;

3 (4) The milk shall be transferred from the sampling device to the sterile sample container away from
4 the opening of the farm bulk tank. The container shall be filled to approximately three-fourths (3/4) full
5 or to the container's "fill line." Enough air space shall be left in the container to allow the sample to be
6 adequately mixed at the laboratory. After the milk has been transferred to the sample container, the
7 container shall be tightly sealed and immediately placed in the sample case with appropriate refrigerant;
8

9 (5) At the time of sampling the first bulk milk tank on the sampler-weigher's route, an additional
10 sample shall be collected for temperature determination. This sample's container shall be identified
11 with the information outlined in subsection (1) of this section and with adequate information to identify
12 the sample as the temperature control;

13 (6) Any additional or special samples obtained on the sampler-weigher's route shall be clearly and
14 specifically identified with waterproof, indelible markings stating the purpose of the sample; and

15 (7) Sampling procedures for nonstandard or sealed farm bulk milk tanks shall be approved by the
16 director.

17 (8) Milk samples shall be under a sampler-weigher's immediate care at all times until the samples
18 are delivered to the milk-receiving station, transfer station, or processor.
19

20 Section 6. Load Sample. A sampler-weigher shall obtain a load sample from the tank on his truck
21 immediately after the last producer's milk is pumped into the truck's tank.

22 (1) The load sample shall be taken from the porthole at the top of the tank on the truck using a
23 sanitized sampling device. Care shall be taken to prevent any foreign material from entering the
24 porthole. The load-sample container shall be identified with the following information:

25 (a) Adequate information to identify the sample as the load-sample;

26 (b) Date;

27 (c) Time (including a.m. or p.m.);

28 (d) Sampler-weigher's initials; and

29 (e) The milk truck's assigned tanker number.

30 (2) The load sample is to be used for comparisons of the load sample and individual producer's
31 samples for the purpose of grading and evaluation of the sampler-weigher's competency in sampling;
32 and

33 (3) The load sample is to be taken by all bulk sampler-weighers in addition to, not in lieu of, any
34 other load samples required by the milk handler, transfer station, receiving station, or processor.
35

36 Section 7. Sample Set. A sample for each producer bulk milk tank, a temperature control sample,
37 and a load sample shall accompany each load of milk to its final receiving station, transfer station, or
38 processor. A sampler-weigher may need to obtain multiple samples for his bulk milk route to meet this
39 requirement.
40

41 Section 8. Milk Sample Transfer Procedures. To expedite the transport of samples to the appropri-
42 ate laboratory, a sampler-weigher shall follow these procedures:

43 (1) For bulk milk deliveries to locations where producers' milk samples are routinely transported
44 from the receiving station, transfer station, or processor to the appropriate laboratory; a sampler-
45 weigher shall properly place his samples in the location's sample storage refrigerator or refrigerated
46 sample storage case after the bulk load of milk has been determined to be acceptable; or

47 (2) For bulk delivery when producer's milk samples are not routinely transported from the receiving
48 station, transfer station, or processor to the appropriate laboratory, a sampler-weigher shall follow
49 written sample transfer procedures established by the licensed handler(s) who issues payments to
50 producers on the sampler-weigher's route(s). Written sample transfer procedures shall be approved
51 by the director. (AES-CL 13; 1 Ky.R. 1234; eff. 7-2-75; Am. 11 Ky.R. 615; eff. 11-13-84; 15 Ky.R. 1122;
52 eff. 11-23-88; 27 Ky.R. 1854; eff. 3-19-2001.)
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Rules and Regulations for Implementation of the Kentucky Farm Milk Handlers Law

12 KAR 5:050. Inspections.

RELATES TO: KRS 260.775 to 260.845, 260.992

STATUTORY AUTHORITY: KRS 260.825(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.825(1) authorizes the Director of the Kentucky Agricultural Experiment Station to promulgate administrative regulations necessary for the effective enforcement of KRS 260.775 to 260.845 regarding milk. This administrative regulation establishes a basis for monitoring licensed milk handlers, laboratories, transfer stations, sampler-weighers, and testers to ensure that these licensees are in compliance with KRS 260.775 to 260.845.

Section 1. A milk handler, laboratory, and transfer station shall be inspected and evaluated for compliance with KRS 260.775 to 260.845. The director shall provide written notice to the appropriate licensee to correct any observed discrepancies. Unsatisfactory compliance shall be dealt with in accordance with KRS 260.775 to 260.845 and 260.992.

Section 2. A sampler-weigher shall be inspected and evaluated for compliance with KRS 260.775 to 260.845.

(1) A sampler-weigher's records, equipment, samples, and procedures shall be examined to determine compliance.

(2) Milk samples obtained by a sampler-weigher may be collected and analyzed by the director to assist in the evaluation of the sampler-weigher's activities.

(a) Results of these analyses may be used to make comparisons among and between these samples. These comparisons may include the use of milk-component test results and other test results pertaining to milk quality and composition.

(b) Results of these analyses may be used to determine the amount of milkfat on a load of bulk milk as represented by the individual producer's bulk-tank samples and weights and as represented by the load sample and the sum of individual producers' bulk-tank weights. The deviation of the milkfat on the bulk milk load between these two (2) comparisons may, in part, determine the evaluation of the sampler-weigher.

(c) The deviation between the weight of the load of bulk milk represented by the sum of the individual producer's bulk-tank weights and the weight of the load of bulk milk as determined by an accurate scale or meter may, in part, determine the evaluation of the sampler-weigher. The scale or meter used in this determination shall be well maintained and approved by an accredited scale maintenance firm or appropriate government agency.

(3) An evaluation of an inspection of a sampler-weigher shall be awarded a grade. Grades given shall be A - excellent; B - good; C - poor; D - unsatisfactory. Criteria for awarding grades shall be established by the director and shall be printed on the inspection report. Noncompliance with KRS 260.775 to 260.845 and 12 KAR Chapter 5 may result in a D grade inspection.

(4) A sampler-weigher who receives three (3) "D" grade inspections within a twelve (12) month period shall be required to attend the next scheduled one (1) day sampler-weigher training school and take a written examination administered by the director. This shall not prevent the director from taking other actions under KRS 260.775 to 260.845, and 260.992 for a sampler-weigher who receives a D grade inspection or who otherwise is not in compliance with KRS 260.775 to 260.845 and 260.992.

Section 3. A tester shall be inspected and evaluated for compliance with KRS 260.775 to 260.845.

(1) A tester's records, equipment, and procedures shall be examined, in part, to determine compliance.

(2) The results of a tester's analyses may be compared to results of the director's analyses. The deviation between these results shall, in part, determine compliance. The director shall provide written notice to the tester and to the licensed laboratory employing the tester to correct any discrepancies. Unsatisfactory compliance shall be dealt with in accordance with KRS 260.775 to 260.845 and 260.992. (AES-CL-18; 1 Ky.R. 1235; eff. 7-2-75; Am. 15 Ky.R. 1123; eff. 11-23-88; 27 Ky.R. 1857; 2420; eff. 3-19-2001.)

Rules and Regulations for Implementation of the Kentucky Farm Milk Handlers Law

1
2 **12 KAR 5:060. Purchases from farm bulk tanks.**
3

4 RELATES TO: KRS 260.775 to 260.845, 260.992

5 STATUTORY AUTHORITY: KRS 260.825(1)

6 NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.825(1) authorizes the Director of the
7 Kentucky Agricultural Experiment Station to promulgate administrative regulations necessary for the
8 effective enforcement of KRS 260.775 to 260.845 regarding milk. This administrative regulation estab-
9 lishes criteria for recordkeeping and reporting practices to ensure that bulk farm milk is fairly and
10 accurately marketed.
11

12 Section 1. A licensed bulk milk handler or licensed transfer station shall review bulk milk delivery
13 tickets to ensure compliance with KRS 260.775 to 260.845.

14 (1) A bulk-milk delivery ticket representing a load of milk for a permitted Kentucky producer shall
15 be examined to ensure that a licensed sampler-weigher sampled and weighed the milk.

16 (2) A bulk-milk delivery ticket representing a shipment of milk from a producer shall be examined
17 for compliance with 12 KAR 5:040, Section 4(3).

18 (3) Discrepancies shall be reported to the director.
19

20 Section 2. Personnel at a licensed laboratory who test permitted producers' samples for pay pur-
21 poses shall review the information recorded on sample containers to ensure compliance with 12 KAR
22 5:040, Section 5(1). An agent of the laboratory shall report discrepancies to the director.
23

24 Section 3. Licensed Milk Handler Reporting Requirements. (1) Each licensed milk handler shall
25 submit to the director an accurately-completed Kentucky Farm Milk Handlers Report each quarter with
26 payment of inspection fee as required by KRS 260.821. The Kentucky Farm Milk Handlers Report form
27 shall be provided to handlers by the director.

28 (2) Each licensed milk handler who issues payments to permitted producers shall submit to the
29 director a current list of these permitted producers to whom payments are being issued. The list shall
30 be submitted with the handler's annual license application and shall be updated when the handler
31 submits its quarterly Kentucky Farm Milk Handlers Report. The listing shall include the following
32 information about each permitted producer:

33 (a) Name;

34 (b) Identification number issued by the handler if different from permit number; and

35 (c) Mailing address.
36

37 Section 4. A licensed milk handler who issues payments to permitted producers shall submit to the
38 director, upon request, a copy of each permitted producer's bulk-tank conversion chart(s) to whom they
39 issue payments. These charts may be reviewed by the director to determine if a permitted producer's
40 bulk milk has been accurately weighed by sampler-weighers.
41

42 Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:
43 "Kentucky Farm Milk Handlers Report", October 2000, Division of Regulatory Services.

44 (2) This material may be inspected, copied or obtained, subject to copyright law, at the Division of
45 Regulatory Services, College of Agriculture, 103 Regulatory Services Building, University of Kentucky,
46 Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m. (AES-CL-24; 1 Ky.R.
47 1235; eff. 7-2-75; Am. 15 Ky.R. 1124; eff. 11-23-88; 27 Ky.R. 1858; 2421; eff. 3-19-2001.)
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Rules and Regulations for Implementation of the Kentucky Farm Milk Handlers Law

1 **12 KAR 5:070. Uniform standards for payment.**
2

3 RELATES TO: KRS 260.775 to 260.845, 260.992

4 STATUTORY AUTHORITY: KRS 260.825(1)

5 NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.825(1) authorizes the Director of the
6 Kentucky Agricultural Experiment Station to promulgate administrative regulations necessary for the
7 effective enforcement of KRS 260.775 to 260.845 regarding milk. This administrative regulation estab-
8 lishes criteria for uniform standards of payment for producer milk.
9

10 Section 1. Number of Samples Required for Milk Component Testing for Pay Purposes. (1) Grade
11 A milk producers shall be paid based on calculations of component tests from a minimum of five (5)
12 bulk tank samples representative of and fairly evenly spaced throughout the monthly pay period.

13 (2) Manufacturing grade milk producers shall be paid based on calculations from a minimum of
14 three (3) bulk tank samples representative of and fairly evenly spaced throughout the fifteen (15) day
15 pay period.

16 (3) Payment calculations for producers with multiple farm bulk tanks shall be made for each tank
17 separately or shall include a weighted-average computation. A daily weighted average shall be based
18 on a test from a sample representing each farm bulk tank and a recorded weight for each farm bulk
19 tank.
20

21 Section 2. Pay Records. (1) Written records shall be recorded legibly in ink by an agent of the
22 handler and include the following information:

23 (a) Each page shall be signed and dated by a responsible person; and

24 (b) Changes or corrections to records shall be made by drawing a single line through the entry and
25 writing the corrected entry nearby. Any changes or corrections shall be dated and initialed.

26 (2) Persons who use electronic systems to create, modify, maintain, or transmit records relating
27 to milk samples, weights, tests, or payments shall employ procedures and controls designed to ensure
28 the authenticity and integrity of the records. Such procedures and controls shall include the following:

29 (a) The ability to generate accurate and complete copies of records in printed and electronic form
30 which are suitable for inspection, review, and copying by the director;

31 (b) Protection of records to enable their accurate and ready retrieval throughout the retention period
32 of the records;

33 (c) Limiting electronic record access only to authorized individuals;

34 (d) Determination that persons who develop, maintain, or use electronic systems have the training
35 and qualifications to perform assigned tasks; and

36 (e) The establishment of and adherence to written policies to deter record falsification. The policies
37 shall hold a person responsible for his tasks relating to electronic records.

38 (3) The consolidated pay records shall be compiled from the sampler-weigher's weight records,
39 valid laboratory test records, and other factors affecting the price. All records relating to payments shall
40 be properly documented and retained for a two (2) year period.

41 (4) A statement that agrees with the pay record shall be provided to each permitted producer with
42 the final payment for each month. The statement shall include the following:

43 (a) Dates covered by payment;

44 (b) Amount of milk paid for;

45 (c) Detailed pricing description;

46 (d) Test result(s) and component yield(s) used to calculate payment; and

47 (e) Any deductions. (AES-CL 13, 21, 22; 1 Ky.R. 1235; eff. 7-2-75; Am. 15 Ky.R. 1125; eff. 11-23-88;
48 ;27 Ky.R. 1859; 2421; eff. 3-19-2001.)
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