

FOOD PRODUCTS CONTAINING NO DAIRY PRODUCTS BUT MADE IN SEMBLANCE OF MILK OR DAIRY PRODUCTS

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Promulgated Under the Authority of Act 96 of 1913, Ark. Code Ann. § 20-7-110.

Section I. Intent: Application for Permits

(a) The intent of the Rules and Regulations Pertaining to Foods Containing to Dairy Products but made in Semblance of Milk or Dairy Products is to establish manufacturing requirements and set bacteriological and temperature standards for products to be marketed in the fluid state only.

(b) All manufacturers of foods containing no dairy products but made in semblance of milk or milk products shall make application for a permit to sell or offer for sale such products within the State of Arkansas on forms provided by the Department of Health

It shall be unlawful for any person to bring into, send into or receive into or have in storage in the State of Arkansas, for sale or to sell, or offer for sale therein, foods containing no dairy products but made in semblance of milk or dairy products who does not possess a valid permit by the health officer, provided that grocery stores, restaurants, cafeterias, soda fountains and similar establishments, where such products are served or sold at retail, but not processed, shall not be required to obtain a permit. Such a permit may be temporarily suspended by the health officer upon violation by the holder of any of the terms of these regulations, or for interference with the health officer in the performance of his duties, or may be revoked after an opportunity for a hearing by the health officer upon repeated or serious violations

Section II. Standard of Identity

"Foods containing no dairy products but made in semblance of milk or dairy products" means and includes any combination of edible fats or oils other than milk fat combined with edible food grade solids other than milk solids-not-fat, and other permitted optional ingredients so that the resulting product is in semblance of any defined milk or milk product

Section III. Optional Ingredients

"Foods containing no dairy products but made in semblance of milk or dairy products in addition to the standard of identity specified in Section II of this regulation may contain any of the following

optional ingredients: stabilizers, emulsifiers, vitamins, minerals, edible food solids, natural and artificial flavors, artificial color and other similar ingredients, provided that if Vitamin A and D are used the quantity used must be such that one quart of the finished product shall contain not less than 2000 International Units of Vitamin A and 400 International Units of Vitamin D

#### Section IV. Labeling Requirements

Foods containing no dairy products but made in semblance of milk or dairy products if in package form shall be deemed to be misbranded.

(a) If any representation is made or suggested by statement, word, grade, designation, design, symbol, picture, device or any combination thereof that such food is a dairy product;

(b) If the labeling of any foods containing no dairy products but made in semblance of milk or dairy products has not been submitted to the Arkansas Department of Health for approval prior to such product being offered for sale within the State of Arkansas: Provided, however, that manufacturers and distributors of such products currently being sold in Arkansas on the effective date of this regulation shall have until January 1, 1978 to obtain label approval;

(c) If the labeling of any foods containing no dairy products but made in semblance of any dairy products are not in compliance with the current Arkansas Food, Drug and Cosmetic Act

#### Section V. Submission of Plans

Properly prepared plans for plants processing foods containing no dairy products but made in semblance of milk or dairy products, regulated under this regulation, which are hereafter constructed, reconstructed or extensively altered shall be submitted to the Arkansas Department of Health for written approval before construction is begun.

#### Section VI. Sanitary Requirements

Foods containing no dairy products but made in semblance of milk or dairy products shall be produced under sanitary conditions and shall comply with the provisions of the Arkansas State Board of Health current regulations pertaining to plant sanitation for Grade A Milk and Milk Products.

#### Section VII. Bacterial Standards and Laboratory Examinations

Foods containing no dairy products but made in semblance of milk or dairy products shall be processed and pasteurized to conform with the following bacterial and temperature standards:

Temperature	Bacterial Limits	Coliform Limits
Cooling to 45°F. or less (if applicable)	20,000 per ml	Not exceeding 10 per ml

Cultured products shall be exempt from bacterial limits.

#### Section VIII. Inspections: Reciprocity of Inspections: Sample Collections

(a) Every manufacturer of foods containing no dairy products but made in semblance of milk or dairy products shall be inspected by the Arkansas Department of Health prior to the issuance of a permit. Following the issuance of a permit, each plant shall be inspected at least once every three months. Provided, however, the Department may accept inspections conducted by other appropriate

state agencies for plants located outside Arkansas, only for those States that have authorized and signed reciprocal inspection agreements. A reasonable fee, to be determined by the Arkansas State Board of Health, shall be charged for all out-of-state inspections where reciprocal inspections are not available and cannot be negotiated. Should the violation of any requirement set forth in this regulation be found to exist, a second inspection shall be required after the time deemed necessary to remedy the violation but not before three days. The reinspection shall be used to determine compliance with the requirements of this regulation.

(b) During any consecutive six months at least four samples of foods containing no dairy products but made in semblance of milk or dairy products shall be taken. Required bacterial counts, coliform counts and cooling temperature (temperature when applicable) checks shall be performed on all foods containing no dairy products but made in semblance of milk or dairy products. Whenever two of the last four consecutive bacteria counts, coliform determinations, or cooling temperatures, taken on separate days, exceed the limit of the standard for foods containing no dairy products but made in semblance of any milk or dairy product the Arkansas Department of Health shall send a written notice thereof to the person concerned. This notice shall be in effect so long as two of the last four consecutive samples exceed the limit of the standard. An additional sample shall be taken within 14 days of the sending of such notice, but not before the lapse of three days. Immediate suspension of permit shall be instituted whenever the standard is violated by three of the last five bacteria counts, cooling temperature (when applicable) or coliform determination.

(c) Samples shall be analyzed at any official or appropriate officially designated laboratory. All sampling procedures and required laboratory examinations shall be in substantial compliance with the current edition of Standard Methods for the Examination of Dairy Products of the American Public Health Association and the current edition of Official Methods of Analyses of the Association of Official Agricultural Chemists. Assays of products with the addition of Vitamin D and/or Vitamin A shall be made at least annually in a laboratory acceptable to the enforcement agency having jurisdiction.

#### Section IX. Certification

This will certify that the foregoing Rules and Regulations Pertaining to Foods Containing No Dairy products and made in Semblance of Any Milk or Dairy Product were adopted by the State Board of Health of Arkansas at a regular executive session of said Board held in Little Rock, Arkansas, on the 20th day of January, 1977.

(signed)

Rex Ramsay, Jr., M.D., M.P.H

Secretary of the Board of Health

State Health Officer

Dated at Little Rock, Arkansas, this 20th day of January, 1977.

The foregoing Rules and Regulations, copy having been filed in my office, are hereby approved this 9th day of August, 1977.

(signed)

David Pryor

Governor