

## C. Commercial Feed

### §2-8-41.1. Short title.

This act shall be known and may be cited as the "Oklahoma Commercial Feed Law".

Added by Laws 1984, c. 15, § 1, eff. July 1, 1985.

### §2-8-41.2. Administration of act.

This act shall be administered by the Board of Agriculture of the State of Oklahoma, hereinafter referred to as the "Board".

Added by Laws 1984, c. 15, § 2, eff. July 1, 1985.

### §2-8-41.3. Definitions.

As used in the Oklahoma Commercial Feed Law:

1. "**Brand name**" means any word, name, symbol, device, or combination identifying the commercial feed of a distributor or licensee;
2. "**Commercial feed**" means all materials except whole seeds unmixed or physically altered entire unmixed seeds, when not adulterated within the meaning of paragraph 1 of Section 8-41.7 of this title, which are distributed for use as feed or for mixing in feed. The term "commercial feed" shall not include:
  - a. any feed or any ingredient of feed which is to be used by a contract feeder and fed to livestock and poultry, owned solely by the manufacturer of the feed, or
  - b. hay, straw, stover, silage, cobs, husks, hulls, individual chemical compounds or substances or other such commodities when these ingredient sources are not intermixed or mixed with other materials, and are not adulterated within the meaning of Section 8-41.7 of this title, such commodities shall also be exempt from the provisions of this subarticle;
3. "**Contract feeder**" means a person who as an independent contractor feeds animals pursuant to a contract, the feed is supplied, furnished, or provided to another person and the feeder's remuneration is determined solely or in part by feed consumption, mortality, profits, or amount or quality of product;
4. "**Customer-formula feed**" means commercial feed consisting of a mixture of commercial feeds or feed ingredients. Each batch is

manufactured according to the specific instructions of the final purchaser;

5. "**Deleterious substance**" means any substance including, but not limited to, dust, dirt, filth, or excrement derived from insects, birds, except domestic poultry litter, rodents, or other animals that may render a feed material harmful or injurious when consumed by animals;
6. "**Distribute**" means to offer for sale, sell, exchange, barter, supply, furnish, or provide commercial feed;
7. "**Distributor**" means any person who distributes feed or feed ingredients;
8. "**Drug**" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than humans and articles other than feed intended to affect the structure or any function of the animal body;
9. "**Feed ingredient**" means each of the constituent materials making up a commercial feed;
10. "**Label**" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed;
11. "**Labeling**" means all labels and other written, printed, or graphic matter upon commercial feed or any of its containers or wrappers accompanying the commercial feed;
12. "**Manufacture**" means to grind, mix or blend, or further process a commercial feed for distribution;
13. "**Mineral feed**" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients;
14. "**Official sample**" means any sample of feed taken by an authorized agent of the State Board of Agriculture;
15. "**Percent**" or "**percentages**" means a portion of each hundred units of weight;
16. "**Pet**" means any domesticated animal normally maintained in or near the household of the animal's owner;

17. "**Pet food**" means any commercial feed prepared and distributed for consumption by dogs or cats;
18. "**Product name**" means the name of the commercial feed which identifies it as to kind, class, or specific use;
19. "**Specialty pet**" means any domesticated animal pet normally maintained in a cage or tank, including, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes, and turtles;
20. "**Specialty pet food**" means any commercial feed prepared and distributed for consumption by specialty pets; and
21. "**Ton**" means a net weight of two thousand (2,000) pounds avoirdupois.

**§2-8-41.4. License to sell, offer, or expose for sale or distribute - Application - Suspension, cancellation, revocation, refusal of issuance or reissuance.**

- A. 1. Valid licenses are required by all persons whose name appears on the label or invoice as the guarantor manufacturing or distributing of a commercial feed product in this state. The license application must list each manufacturing and distribution facility which is or will be engaged in distributing any feed sold, offered for sale, or distributed by the applicant. No license is required of a person retailing or wholesaling commercial feed labeled and guaranteed by another manufacturer. Any out-of-state person who has no distribution facility within this state shall obtain a license for the entity's principal out-of-state office if the out-of-state person or other entity sells, offers or exposes for sale, or distributes any commercial feed in this state.
2. Application shall be made on a form furnished by the State Board of Agriculture.
3. The Board may establish an annual fee for licensing distributors pursuant to the provisions of the Oklahoma Commercial Feed Law. The Board shall follow the procedures required by the Administrative Procedures Act for promulgation of rules in establishing the licensing fees.
4. Licenses shall be renewed on a date to be determined by the Board. Commercial feed license renewal applications received thirty 30 days or more after the renewal date shall be subject to a late filing fee of Fifty Dollars (\$50.00).

- B. Any license may be suspended, canceled, revoked, or refused reissue by the Board after notice and opportunity for a hearing has been given to the holder of the license in accordance with the Administrative Procedures Act. Notice shall be given to the holder of the license by registered or certified mail at least twenty (20) days prior to the date of the hearing. The suspension, cancellation, revocation, refusal to issue, or reissue may be made if the Board finds any violation of the Oklahoma Commercial Feed Law or of rules or standards prescribed by the Board.
- C. When the Board has reasonable cause to believe a violation of the law may exist, copies of labels and labeling of commercial feed being distributed may be requested in order to determine compliance with the provisions of the Oklahoma Commercial Feed Law, Section 8-41.1 et seq. of this title.

**§2-8-41.5. Feed labels.**

A commercial feed shall be labeled as follows:

- 1. A commercial feed, except a customer-formula feed, shall be accompanied by a label bearing the following information:
  - a. net contents statement (weight or volume),
  - b. the product name and the brand name, if any, under which the commercial feed is distributed,
  - c. the guaranteed analysis stated in such terms as the State Board of Agriculture by rules determines is required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by the Association of Official Analytical Chemists International,
  - d. the official, common, or usual name of each ingredient used in the manufacture of the commercial feed. The Board by rule may permit the use of a collective term for a group of ingredients which perform a similar function, or they may exempt commercial feeds, or any group, from this requirement of an ingredient statement if they find that the statement is not required in the interest of consumers,
  - e. the name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed,

- f. adequate directions for use for all commercial feeds containing drugs and for other feeds as the Board may require for their safe and effective use, and
  - g. precautionary statements the Board determines are necessary for the safe and effective use of the commercial feed;
- 2. Label format shall comply with applicable state and/or federal packaging and labeling regulations; and
- 3. A customer-formula feed shall be accompanied by a label, invoice, delivery slip, or other shipping document, bearing the following information:
  - a. name and address of the manufacturer,
  - b. name and address of the purchaser,
  - c. date of delivery,
  - d. the product name and brand name, if any, the net weight of each commercial feed used in the mixture, and the net weight of each ingredient used,
  - e. adequate directions for use for all customer-formula feeds containing drugs and for other feeds the Board may require for their safe and effective use,
  - f. the direction for use and precautionary statements as required by the Board, and
  - g. if a drug-containing product is used:
    - (1) the purpose of the medication (claim statement), and
    - (2) the established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with rules promulgated by the Board.

### **§2-8-41.6. Misbranding.**

A commercial feed shall be misbranded if:

1. Its labeling is false or misleading in any particular;
2. It is distributed under the name of another commercial feed;
3. It is not labeled as required in Section 8-41.5 of this title;
4. It purports to be or is represented as a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient, unless the commercial feed or feed ingredient conforms to the definition, if any, prescribed by the State Board of Agriculture; and
5. Any word, statement, or other information required by this subarticle to appear on the label or labeling is not prominently placed with conspicuousness as compared with other words, statements, designs, or devices in the labeling, and in terms likely to be read and understood by the individual purchasing and using the product.

### **§2-8-41.7. Adulteration.**

A commercial feed shall be adulterated if:

1. a. it contains any poisonous or deleterious substance which may render it injurious to health. If the substance is not an added substance, the commercial feed shall not be considered adulterated under this subsection if the quantity of the substance in the commercial feed does not ordinarily render it injurious to health when utilized according to label and/or labeling directions, or
- b. it contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug, and Cosmetic Act other than one which is:
  - (1) a pesticide chemical in or on a raw agricultural commodity; or
  - (2) a food additive.
- c. it is, or contains, any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act, or
- d. it is a raw agricultural commodity and it bears or contains a

pesticide chemical which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act. Provided, that where a pesticide chemical has been used in or on a raw agricultural commodity pursuant to an exemption or a tolerance under Section 408 of the Federal Food, Drug, and Cosmetic Act and the raw agricultural commodity has been subjected to processing similar to canning, cooking, freezing, dehydrating, or milling, the residue of the pesticide chemical remaining in or on the processed feed shall not be deemed unsafe if:

- (1) the residue has been removed to the extent possible in good manufacturing practice, and
  - (2) the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of the processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act, or
- e. it is or contains any color additive which is unsafe within the meaning of Section 706 of the Federal Food, Drug, and Cosmetic Act;
2. Any valuable constituent has been in whole or in part omitted or abstracted or any less valuable substance substituted;
  3. Its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling;
  4. It contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice rules promulgated by the State Board of Agriculture to assure that the drug meets the requirement of this subarticle as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating the rules, the Board shall adopt the current good manufacturing practice regulations for medicated feed premixes and for medicated feeds established under authority of the Federal Food, Drug, and Cosmetic Act, unless the Board determines that they are not appropriate to the conditions which exist in this state; or
  5. If it contains viable weed seeds in amounts exceeding the limits the Board shall establish.

### **§2-8-41.8. Prohibited acts.**

The following acts are prohibited:

1. The manufacture or distribution of any commercial feed that is adulterated or misbranded;
2. The adulteration or misbranding of any commercial feed;
3. The distribution of agricultural commodities like whole seed, hay, straw, stover, silage, cobs, husks, and hulls, which are adulterated within the meaning of paragraph 1 of Section 8-41.7 of this title;
4. The removal or disposal of a commercial feed in violation of an order under Section 8-41.12 of this title;
5. The failure or refusal to obtain a commercial feed license in accordance with Section 8-41.4 of this title;
6. The violation of subsection C of Section 8-41.13 of this title; and
7. Failure to pay inspection fees and file reports as required by Section 8-41.9 of this title.

### **§2-8-41.9. Inspection fee.**

- A. An inspection fee at the rate of fifteen cents (\$0.15) per ton shall be paid on commercial feeds and/or feed ingredients distributed in this state by the person whose name appears on the label as the manufacturer, guarantor, or distributor, except that a person other than the manufacturer, guarantor, or distributor may assume liability for the inspection fee, subject to the following:
  1. No fee shall be paid on a commercial feed if the payment has been made by a previous distributor;
  2. The minimum inspection fee shall be Ten Dollars (\$10.00) semi-annually;
  3. No fee shall be paid on commercial feeds or feed ingredients used in customer-formula feeds if the inspection fee has been previously paid on those ingredients; and
  4. No fee shall be paid on customer-formula feed ingredients that have been furnished by the final purchaser on which a processing fee has been paid.

- B. Each person who is liable for the payment of the fee shall:
1. File, not later than the last day of January and July of each year, a semi-annual statement listing the number of net tons of commercial feeds distributed in this state during the preceding semi-annual period; and upon filing the statement shall pay the inspection fee at the rate stated in subsection A of this section. Inspection fees which are due and have not been remitted to the State Board of Agriculture within fifteen (15) days following the date due shall have a penalty fee of ten percent (10%) Fifty Dollars (\$50.00) minimum added to the amount due when payment is finally made. The assessment of this penalty fee shall not prevent the Board from taking other actions as provided in this act; and
  2. Keep records required by the Board to indicate accurately the tonnage of commercial feed distributed in this state, and the Board shall have the right to examine these records to verify statements of tonnage. Failure to make an accurate statement of tonnage, failure to pay the inspection fee, or falsifying information or failure to comply shall constitute sufficient cause for the cancellation of the commercial feed license.
- C. Fees collected shall be deposited with the State Department of Agriculture Revolving Fund.
- D. If the Board finds any deficient inspection fees due, as a result of an audit of the records of any person subject to the provisions of the Oklahoma Commercial Feed Law, the Board shall assess a penalty fee of ten percent (10%) maximum not to exceed Two Thousand Dollars (\$2,000.00) of amount due, or One Hundred Dollars (\$100.00), whichever is greater. The audit penalty shall be added to the deficient inspection fees due and payment made within thirty (30) days.

**§2-8-41.12. "Stop Sale" orders - "Condemnation and Confiscation".**

- A. "Stop Sale" orders: When the State Board of Agriculture has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this act or rules, it may issue and enforce a written or printed "Stop Sale" order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the Board or the court. The Board shall release the lot of commercial feed withdrawn when all requirements have been met. If compliance is not obtained within thirty (30) days, the Board may begin, or upon request of the distributor or licensee shall begin, proceedings for condemnation.

- B. "Condemnation and Confiscation": Any lot of commercial feed not in compliance with the law shall be subject to seizure on complaint of the Board to a court in the area in which the commercial feed is located. In the event the court finds the commercial feed to be in violation of this subarticle and orders the condemnation of the commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state. In no instance shall the disposition of the commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial feed or for permission to process or relabel the commercial feed to bring it into compliance with this subarticle.

**§2-8-41.13. Violations - Penalties - Prosecution - Injunctions.**

- A. Nothing in this subarticle shall be construed as requiring the State Board of Agriculture or its representative to:
1. Report for prosecution; or
  2. Institute seizure proceedings; or
  3. Issue a "Stop Sale" order, as a result of minor violations of this subarticle, or when the public interest will best be served by a suitable notice of violation or written warning.
- B. Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this subarticle may within forty-five (45) days bring action in the Oklahoma County District Court for judicial review.
- C. Any person who uses any information acquired concerning any method, records, formulations, or processes which is entitled to protection as a trade secret for personal advantage, or reveals that information to other than the Board, or the courts when relevant in any judicial proceeding, is guilty of a misdemeanor. This prohibition shall not prohibit the Board from exchanging information of a regulatory nature with duly appointed officials of the United States government, or of other states, who are similarly prohibited by law from revealing this information.

**§2-8-41.15. Annual publication of commercial feed information.**

The State Board of Agriculture may publish information concerning the sales of commercial feeds, together with the data on their production and use as it may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the state as compared with the analyses guaranteed on the label. The information concerning production and use of commercial feed shall not disclose the operations of any person.

**§2-8-41.16. Environmental jurisdiction**

A. The Department of Environmental Quality shall have environmental jurisdiction over:

1. Commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mills, and other agricultural products;
2. Slaughterhouses, but not including feedlots at such facilities; and
3. Aquaculture and fish hatcheries, including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at the facilities.

B. Facilities which store grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal National Pollutant Discharge Elimination System (NPDES) regulations to obtain a permit for storm water discharges shall only be subject to the jurisdiction of the Department of Environmental Quality with respect to such storm water discharges.

## **SUBCHAPTER 27. FEED**

### **PART 1. COMMERCIAL FEED**

#### **35:30-27-1. Commercial feed terminology**

- (a) The names and definitions for commercial feeds shall be the Official Definitions of Feed Ingredients adopted by the Association of American Feed Control Officials (AAFCO), except as the Board designates in specific cases.
- (b) The terms used in reference to commercial feeds shall be the Official Feed Terms adopted by the AAFCO, except as the Board designates in specific cases.
- (c) The following commodities are declared exempt from the definition of commercial feed, under the Oklahoma Commercial Feed Law: raw meat; and hay, loose salt, straw, stover, silages, cobs, husks, and hulls when unground and when not mixed or intermixed with other materials. Provided that these commodities are not adulterated within the meaning of Section 8-41.7(1) of the Oklahoma Commercial Feed Law.
- (d) The term "Quantity Statement" means the net weight (mass), net volume (liquid or dry), or count.

#### **35:30-27-2. Label format of feed**

- (a) Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this subchapter and in the following general format.
  - (1) Product name and brand name, if any, as stipulated in 35:30-27-3(a)(1).
  - (2) If a drug is used, label as stipulated in 35:30-27-3(a)(2).
  - (3) Purpose Statement as stipulated in 35:30-27-3(a)(3).
  - (4) Guaranteed analysis as stipulated in 35:30-27-3(a)(4).
  - (5) Feed ingredients as stipulated in 35:30-27-3(5).
  - (6) Name and principal mailing address of the manufacturer or person responsible for distributing the feed as stipulated in 35:30-27-3(a)(7).
  - (7) Directions for use and precautionary statements as stipulated in 35:30-27-3(6).
  - (8) Net weight or mass net volume or count and metric equivalent.

- (b) The presentation of information and the label format shall meet the requirements of applicable State and Federal packaging regulations. "Uniform Packaging and Labeling Regulation" as adopted by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology (NIST) Handbook 130 and amendments.
  - (1) The information required within 35:30-27-2(a)(1)-(5) and (7)-(8) shall appear entirely on one side of the label or on one side of the container.
  - (2) Additional information besides that required within 35:30-27-2 may be placed on a supplemental label.
- (c) Customer-formula feed shall be accompanied with the information prescribed in this subchapter using labels, invoices, delivery tickets, or other shipping documents bearing the following information:
  - (1) The name and address of the manufacturer.
  - (2) The name and address of the purchaser.
  - (3) The date of sale or delivery.
  - (4) The customer-formula feed name and brand name, if any.
  - (5) The product name and net weight of each commercial feed and each other ingredient used in the mixture; except when approved by the Board, the manufacturer may affix the statement "Customer-formula on file" in lieu of ingredient list. This formula shall be made available to the feed purchaser upon request.
  - (6) The directions for use and precautionary statements as required by 35:30-27-6 and 35:30-27-7.
  - (7) If a drug containing product is used:
    - (A) The purpose of the medication (claim statement).
    - (B) The established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with 35:30-27-4(d).

### **35:30-27-3. Label information**

- (a) Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this rule.
  - (1) Product name and brand name, if any.

- (A) The brand or product name shall be appropriate for the intended use of the feed and shall not be misleading. If the name indicates the feed is made for a specific use, the character of the feed shall conform to that use. A commercial feed for a particular animal class shall be suitable for that purpose.
- (B) Commercial, registered brand, or trade names are not permitted in guarantees or ingredient listings and only in the product name of feeds produced by or for the firm holding the rights to the name.
- (C) The name of a commercial feed shall not be derived from one or more ingredients of a mixture to the exclusion of other ingredients and shall not be one representing any components of a mixture unless all components are included in the name: provided, that if any ingredient or combination of ingredients is intended to impart a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients may be used as part of the brand name or product name if the ingredients or combination of ingredients is quantitatively guaranteed in the guaranteed analysis, and the brand or product name is not false or misleading.
- (D) The word "protein" shall not be permitted in the product name of a feed that contains added non-protein nitrogen.
- (E) When the name carries a percentage value, it shall be understood to signify protein and/or equivalent protein content only, even though it may not explicitly modify the percentage with the word "protein": provided, that other percentage values may be permitted if they are followed by the proper description and conform to good labeling practice. Digital numbers shall not be used in a manner as to be misleading or confusing to the customer.
- (F) Single ingredient feeds shall have a product name in accordance with the designated definition of feed ingredients as recognized by the Association of American Feed Control Officials except as the Board designates.
- (G) The word "vitamin", a contraction of vitamin, or any word suggesting vitamin can be used only in the name of a feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared, as specified in 35:30-27-4(c).
- (H) The term "mineralized" shall not be used in the name of the feed except for "TRACE MINERALIZED SALT". When so used, the product shall contain significant amounts of trace minerals which are recognized as essential for animal nutrition.

- (1) The terms "meat" and "meat by-products" shall be qualified to designate the animal species from which the meat and meat by-products are derived. All products of this nature derived from ruminant sources shall bear the **"WARNING STATEMENT: DO NOT FEED TO CATTLE OR OTHER RUMINANTS"** per Section 409, the Federal Food, Drug and Cosmetic Act.
- (2) If a drug is used:
  - (A) The word "medicated" shall appear directly following and below the product name in type size, no smaller than one-half the type size of the product name.
  - (B) Purpose statement as required in 35:30-27-3(a)(3)(A)&(B).
  - (C) The purpose of medication (claim statement) as stated on the label.
  - (D) An active ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with 35:30-27-4(d).
- (3) Purpose Statement
  - (A) The purpose statement shall identify the specific species and animal class(es) for which the feed is intended as defined in AAFCO Model Regulation 3,(a),(4) as may be amended.
  - (B) The manufacturer shall have flexibility in describing in more specific and common language the defined animal class, species, and purpose while being consistent with the category of animal class defined in AAFCO Model Regulation 3(a)(4), as may be amended, which may include, but is not limited to, weight range(s), sex, or ages of the animal(s) for which the feed is manufactured.
  - (C) The purpose statement may be excluded from the label if the product name includes a description of the species and animal class(es) for which the product is intended.
  - (D) The purpose statement of a premix for the manufacture of feed may exclude the animal class and species and state "For Further Manufacture of Feed" if the nutrients contained in the premix are guaranteed and sufficient for formulation into various animal species feeds and premix specifications are provided by the end user.

- (E) The purpose statement of a single purpose ingredient blend, like a blend of ingredients of mammalian origin are restricted to non-ruminant feeds unless exempted by 21 CFR 599.200 of the Federal Food, Drug and Cosmetic Act, animal protein products, milk products, fat products, roughage products, or molasses products may exclude the animal class and species and state "For Further Manufacture of Feed" if the label guarantees of the nutrients contained in the single purpose nutrient blend are sufficient to provide for formulation into various animal species feeds.
- (4) The sequence of nutritional guarantees shall be crude protein, non-protein nitrogen, amino acids, crude fat, crude fiber, acid detergent fiber, calcium, phosphorous, salt, and sodium shall be used when the guarantee is stated. Other required guarantees shall follow the guidelines of the current AAFCO Model Bill requirements and/or the provisions of the AAFCO Publication.
- (b) The label format for the required components of a commercial feed shall conform to the guidelines established within Regulation 3(a)(4)(I thru XI) of the AAFCO Model Bill as amended.
- (c) All other commercial feeds, except those specifically described within the AAFCO Model Bill shall bear a label stating the following information and guarantees, unless exempted, and in the order listed.
  - (1) Animal classes and species for which the product is intended.
  - (2) Guaranteed analysis for the following items.
    - (A) Minimum percentage of crude protein.
    - (B) Maximum or minimum percentage of equivalent crude protein from non-protein nitrogen as required in 35:30-27-4(e).
    - (C) Minimum percentage of crude fat.
    - (D) Maximum percentage of crude fiber.
    - (E) Minerals, in formula feeds to include, in the following order:
      - (i) minimum and maximum percentages of calcium (Ca),
      - (ii) minimum percentage of phosphorus (P),
      - (iii) minimum and maximum percentages of salt (NaCl), and

- (iv) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee, and
  - (v) other minerals.
- (F) Minerals in feed ingredients, as specified by the official definitions of the Association of American Feed Control Officials.
- (G) Vitamins in the terms as specified in 35:30-27-4(c).
- (H) Total sugars as invert on dried molasses products being sold primarily for their sugar content.
- (I) Viable lactic acid producing microorganism for use in silages in terms specified in 35:30-27-4(g).
- (J) Exemptions
- (i) A mineral guarantee for feed, excluding those feeds manufactured as complete feeds and for feed supplements intended to be mixed with grain to produce a complete feed for swine, poultry, fish, and veal and herd milk replacers, is not required when:
    - (I) The feed or feed ingredient is not intended or represented or does not serve as a principal source of that mineral to the animal; or
    - (II) The feed or feed ingredient is intended for non-food producing animals and contains less than 6.5% total mineral content.
  - (ii) Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement.
  - (iii) Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, like drug premixes, mineral or vitamin supplements, and molasses.
  - (iv) Guarantees for microorganisms are not required when the commercial feed is intended for a purpose other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, and no specific label claims are made.

- (v) The indication for animal class(es) and species is not required on single ingredient products if the ingredient is not intended, represented, or defined for a specific animal class(es) or species.
- (5) Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of 8-41.5(1)(d) of the Oklahoma Commercial Feed Law.
  - (A) The name of each ingredient as defined in the Official Publication of the Association of American Feed Control Officials, common or usual name, or one approved by the Board.
  - (B) Collective terms for the grouping of feed ingredients as defined in the Official Definitions of Feed Ingredients published in the Official Publication of the Association of American Feed Control Officials in lieu of the individual ingredients; provided that:
    - (i) When a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label.
    - (ii) The manufacturer shall provide the feed control official, upon request, with a list of individual ingredients, within a defined group, that are or have been used in manufacturing facilities distributing in or into Oklahoma.
- (6) Directions for use and precautionary statements or reference to their location if the detail feeding directions and precautionary statements required by 35:30-27-7 and 35:30-27-8 appear elsewhere on the label.
- (7) Name and principal mailing address of the manufacturer or person responsible for distributing the feed. The principal mailing address shall include the street address, city, state, and zip code; however, the street address may be omitted if it is shown in the current city directory or telephone directory.

#### **35:30-27-4. Expression of guarantee**

- (a) The guarantees for crude protein, equivalent protein from non-protein nitrogen, amino acids, crude fat, crude fiber, acid detergent fiber and mineral guarantees (when required) of commercial feeds shall be in terms of percentage as stated within 35:30-27-3(b) and (c).
- (b) Mineral guarantees shall be as follows:
  - (1) When the calcium and salt guarantees are given in the guaranteed analysis, they shall be stated and conform to the following:

- (A) When the minimum is below 2.5%, the maximum shall not exceed the minimum by more than 0.5 percentage point.
  - (B) When the minimum is 2.5% but less than 5.0%, the maximum shall not exceed the minimum by more than one percentage point.
  - (C) When the minimum is 5.0% or greater, the maximum shall not exceed the minimum by more than 20% of the minimum and in no case shall the maximum exceed the minimum by more than five percentage points.
- (2) When required, guarantees for minimum and maximum total sodium and salt; minimum potassium, magnesium, sulfur, phosphorus and maximum fluoride shall be stated in terms of percentage. Other minimum mineral guarantees shall be stated in parts per million (ppm) when the concentration is less than 10,000 ppm and in percentage when the concentration is 10,000 ppm (1%) or greater.
- (3) Products labeled with a quantity statement (e.g., tablets, capsules, granules, or liquid) shall state mineral guarantees in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with the quantity statement and direction for use.
- (c) Guarantees for minimum vitamin content of commercial feeds and feed supplements, when made, shall be stated on the label in milligrams per pound of feed except that:
- (1) Vitamin A, other than precursors of Vitamin A, shall be stated in International or USP units per pound.
  - (2) Vitamin D, in products offered for poultry feeding, shall be stated in International Chick Units per pound.
  - (3) Vitamin D for other uses shall be stated in International or USP units per pound.
  - (4) Vitamin E shall be stated in International or USP Units per pound.
  - (5) Concentrated oils and feed additive premixes containing Vitamins A, D and/or E may, at the option of the distributor, be stated in units per gram instead of units per pound.
  - (6) Vitamin B-12, in milligrams or micrograms per pound.

- (7) All other vitamin guarantees shall express the vitamin activity in milligrams per pound in terms of the following menadione; riboflavin; d-pantothenic acid; thiamine; niacin; vitamin B-6; folic acid, choline, biotin, inositol; p-amino benzoic acid; ascorbic acid; and carotene.
- (d) Guarantees for drug in commercial feed shall be stated in terms of percent by weight, except:
- (1) Antibiotics present at less than 2,000 grams per ton total, of commercial feed shall be stated in grams per ton of commercial feed.
  - (2) Antibiotics present at 2,000 or more grams per ton total, of commercial feed shall be stated in grams per pound of commercial feed.
  - (3) Labels for commercial feeds containing growth promotion and/or feed efficiency levels of antibiotics, which are to be fed continuously as the sole ration, are not required to make quantitative guarantees except as specifically noted in the Federal Food Additive Regulations for certain antibiotics, wherein, quantitative guarantees are required regardless of the level or purpose of the antibiotic.
  - (4) The term "milligrams per pound" may be used for drugs or antibiotics in those cases where a dosage is given in "milligrams" in the feeding directions.
- (e) Commercial feeds containing any added non-protein nitrogen shall be labeled as follows:
- (1) For ruminants:
    - (A) Complete feeds, supplements, and concentrates containing added non-protein nitrogen and containing more than 5% protein from natural sources shall be guaranteed as follows: Crude Protein, minimum, \_\_\_\_% (This includes not more than % equivalent crude protein from non-protein nitrogen.)
    - (B) Mixed feed concentrates and supplements containing less than 5% protein from natural sources may be guaranteed as follows: Equivalent Crude Protein from Non-Protein Nitrogen, minimum, \_\_\_\_%
    - (C) Ingredient sources of non-protein nitrogen like Urea, DiAmmonium Phosphate, Ammonium Polyphosphate Solution, Ammoniated Rice Hulls, or other basic non-protein nitrogen ingredients defined by the Association of American Feed Control Officials shall be guaranteed as follows: Nitrogen, minimum, \_\_\_\_% Equivalent Crude Protein from Non-Protein Nitrogen, minimum, \_\_\_\_%

(2) For non-ruminants:

- (A) Complete feeds, supplements, and concentrates containing crude protein from all forms of non-protein nitrogen added shall be labeled as follows: Crude Protein, minimum, \_\_\_\_ % (This includes not more than \_\_\_\_% equivalent crude protein which is not nutritionally available to (species of animal for which feed is intended).)
- (B) Premixes, concentrates or supplements intended for non-ruminants containing more than 1.25% equivalent crude protein from all forms of non-protein nitrogen added shall contain adequate directions of use and a prominent statement: "WARNING: This feed shall be used only in accordance with directions furnished on the label".
- (f) Mineral phosphatic materials for feeding purposes shall be labeled with the guarantee for minimum and maximum percentage of calcium (when present), the minimum percentage of phosphorus, and the maximum percentage of fluorine.
- (g) Guarantees for microorganisms shall be stated in colony forming units per gram (CFU/g) when directions are for using the product in grams, or in colony forming units per pound (CFU/lb) when directions are for using the product in pounds. A parenthetical statement following the guarantee shall list each species in order of predominance.

#### **35:30-27-4.1. Suitability**

- (a) A commercial feed, other than a customer formula feed, shall be nutritionally suitable for its intended purposes as is represented by its labeling.
- (b) If the Board has reasonable cause to believe a commercial feed is not nutritionally suitable, the Board may request the feed manufacturer to either submit an "Affidavit of Suitability" or an alternative procedure. The alternative method may include verification by a recognized source on Animal Nutrition.
- (c) If the Affidavit of Suitability, or the alternative method of verification is not submitted to the Board by the manufacturer within 30 days of written notification the feed may be deemed adulterated under the Oklahoma Commercial Feed Law and be ordered by the Board for removal from the market place.

#### **35:30-27-5. Ingredients**

- (a) The name of each ingredient or collective term for the grouping of ingredients, when required to be listed, shall be the name as defined in the Official Definitions of Feed Ingredients as published in the Official Publications of the Association of American Feed Control Officials, the common or usual name, or one approved by the Board.

- (b) The name of each ingredient shall be shown in letters or type of the same size.
- (c) No references to quality or grade of an ingredient shall appear in the ingredient statement of a feed.
- (d) The term "dehydrated" may precede the name of any product that has been artificially dried.
- (e) A single commercial product defined by the Association of American Feed Control Officials is not required to have an ingredient statement.
- (f) Tentative definitions for commercial feed ingredients shall not be used until adopted as official, unless no official definition exists or the ingredient has a common accepted name that requires no definition, (i.e. sugar).
- (g) When the word "iodized" is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.005% iodine, uniformly distributed.

**35:30-27-6. Directions for use and precautionary statements**

- (a) Directions for use and precautionary statements on the labeling of all commercial feeds and customer-formula feeds containing additives (including drugs, special purpose additives, or non-nutritive additives) shall:
  - (1) Be adequate to enable safe and effective use for the intended purposes by users with no special knowledge of the purpose and use of the articles; and,
  - (2) Include, but not be limited to, all information described by all applicable regulations under the Federal Food, Drug, and Cosmetic Act.
- (b) Adequate directions for use and precautionary statements are required for feeds containing non-protein nitrogen as specified in 35:30-27-7.
- (c) Adequate directions for use and precautionary statements necessary for safe and effective use are required on commercial feeds distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound.

**35:30-27-7. Non-protein nitrogen**

- (a) Urea and other non-protein nitrogen products defined in the Official Publication of the Association of American Feed Control Officials are acceptable ingredients only in commercial feeds for ruminant animals as a source of equivalent crude protein. If the commercial feed contains more than 8.75% of equivalent crude protein from all forms of non-protein nitrogen added or the equivalent crude

protein from all forms of non-protein nitrogen, added as such, exceeds one-third of the total crude protein, the label shall bear adequate directions for the safe use of feeds and a precautionary statement: "**CAUTION: USE AS DIRECTED**". The directions for use and the caution statement shall be in type of a size so placed on the label that they shall be read and understood by persons purchasing and using the product.

- (b) Non-protein nitrogen defined in the Official Publication of the Association of American Feed Control Officials, when so indicated, are acceptable ingredients in commercial feeds distributed to non-ruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from non-protein nitrogen sources when used in non-ruminant rations shall not exceed 1.25% of the total daily ration.
- (c) On labels for medicated and added non-protein nitrogen feeds, which bear adequate feeding directions and/or warning statements about the presence of added drugs and/or non-protein nitrogen, shall not require a duplication of the feeding directions. The precautionary statements shall include sufficient information to ensure the safe and effective use of these products.

#### **35:30-27-8. Drug and feed additives**

- (a) Prior to approval of a license application and/or approval of a label for commercial feed which contain additives (including drugs, other special purpose additives, or non-nutritive additives) the distributor may be required to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label.
- (b) Satisfactory evidence of safety and efficacy of a commercial feed may be:
  - (1) When the commercial feed contains these additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or which are "prior sanctioned" or "informal review sanctioned" or "generally recognized as safe" for that use, or
  - (2) When the commercial feed is itself a drug as defined in the Oklahoma Commercial Feed Law and is generally recognized as safe and effective for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21 U.S.C. 360(b).

#### **35:30-27-9. Adulterants**

- (a) The terms "poisonous or deleterious substances" include, but are not limited to, the following:

- (1) Fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds 0.20% for breeding and dairy cattle; 0.30% for slaughter cattle; 0.30% for sheep; 0.35% for lambs; 0.45% for swine; and 0.60% for poultry.
  - (2) Fluorine bearing ingredients when used in amounts that raise the fluorine content of the total ration (exclusive of roughage) above the following amounts: 0.004% for breeding and dairy cattle; 0.009% for slaughter cattle; 0.006% for sheep; 0.01% for lambs; 0.015% for swine and 0.03% for poultry.
  - (3) Fluorine bearing ingredients incorporated in any feed that is fed directly to cattle, sheep or goats consuming roughage (with or without) limited amounts of grain, that results in a daily fluorine intake in excess of 50 milligrams of fluorine per 100 pounds of body weight.
  - (4) Soybean meal, flakes, or pellets or other vegetable meals, flakes, or pellets which have been extracted with trichlorethylene or other chlorinated solvents.
  - (5) Sulfur dioxide, Sulfurous acid, and salts of Sulfurous acid when used in or on feeds consisting of feed ingredients which are considered or reported to be a significant source of Vitamin B<sub>1</sub> (Thiamine).
- (b) All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as commercial feed to the ultimate consumer, shall be ground fine enough or treated to destroy the viability of the weed seeds so that the finished product shall not exceed the limits established in 35:30-25-4.

### **35:30-27-10 Good manufacturing practices**

- (a) For the purposes of enforcement of Section 8-41.7(4) of the Oklahoma Commercial Feed Law, the Board adopts the following as current good manufacturing practices:
- (1) The regulations prescribing food manufacturing practices for Type B and Type C medicated feeds as published in the Code of Federal Regulations, Title 21, Part 225, Sections 225.1-225.202.
  - (2) The regulations prescribing good manufacturing practices for Type A medicated articles as published in the Code of Federal Regulations, Title 21, Part 226, Sections 226.1-226.115.

### **35:30-27-11 License fee**

Each application to obtain a license to manufacture or distribute commercial feed products within the state shall be accompanied by a license fee of Twenty Dollars (\$20.00).

### **35:30-27-12 Prohibited animal protein products\***

The distribution or use of any rendered or processed animal protein product, regardless of species, from Europe or other known countries listed as Bovine Spongiform Encephalopathy (BSE) positive, is prohibited.

\*Effective date May 13,2002

## **PART 3. PET FOOD**

### **35:30-27-51. Definitions and terms**

The definitions in the Association of American Feed Control Officials (AAFCO) Model Bill and Model Feed Regulations shall apply in addition to the following:

1. **"All life stages"** means gestation/lactation, growth, and adult maintenance life stages.
2. **"Immediate container"** means the unit, can, box, tin, bag, or other receptacle or covering in which a pet food or specialty pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers.
3. **"Ingredient statement"** means a collective and contiguous listing on the label of the ingredients of which the pet food or specialty pet food is composed.
4. **"Principal display panel"** means the part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

### **35:30-27-52. Label format and labeling**

(a) Pet food and specialty pet food shall be labeled with the following information:

- (1) Product name and brand name, if any, on the principal display panel as stipulated in 35:30-27-53;
- (2) The species of pet or specialty pet for which the food is intended conspicuously designated on the principal display panel;
- (3) Quantity statement as defined in 35:30-27-2(a)(8) on the principal display panel;
- (4) Guaranteed analysis as stipulated in 35:30-27-54;
- (5) Ingredient statement as stipulated in 35:30-27-55;
- (6) A statement of nutritional adequacy or purpose if required under 35:30-27-57;

- (7) Feeding directions if required under 35:30-27-58; and
- (8) Name and address of the manufacturer or distributor as stipulated in 35:30-27-61.
- (b) When a pet food or specialty pet food enclosed in an outer container or wrapper is intended for retail sale, all required label information shall appear on the outer container or wrapper.
- (c) A vignette, graphic, or pictorial representation on a pet food or specialty pet food label shall not misrepresent the contents of the package.
- (d) The use of the word "proven" in connection with a label claim for a pet food or specialty pet food is not permitted unless the claim is substantiated by scientific or other empirical evidence.
- (e) No statement shall appear upon the label or labeling of a pet food or specialty pet food which makes false or misleading comparisons between that product and any other product.
- (f) A personal or commercial endorsement is permitted on a pet food or specialty pet food label provided the endorsement is not false or misleading.
- (g) A statement on a pet food or specialty pet food label stating "Improved", "New", or similar designation shall be substantiated and limited to six (6) months production.
- (h) A statement on a pet food or specialty pet food label stating preference or comparative attribute claims shall be substantiated and limited to one (1) year production, after which the claim shall be removed or re-substantiated.

**35:30-27-53. Brand and product names**

- (a) The words "100%", "All", or words of similar designation shall not be used in the brand or product name of a pet food or a specialty pet food if the product contains more than one ingredient, not including water sufficient for processing, decharacterizing agents, or trace amounts of preservatives and condiments.
- (b) An ingredient or a combination of ingredients may form a part of the product name of a pet food or specialty pet food:
  - (1) When the ingredient(s) derived from animals, poultry, or fish constitutes at least 95% of the total weight of the product. Water sufficient for processing may be excluded when calculating the percentage; however, the ingredient(s) shall constitute at least 70% of the total product weight.

- (2) When any ingredient(s) constitutes at least 25% of the weight of the product, provided that:
- (A) Water sufficient for processing may be excluded when calculating the percentage; however, the ingredient(s) shall constitute at least 10% of the total product weight; and
  - (B) A descriptor is used with the ingredient name(s). This descriptor shall imply other ingredients are included in the product formula. Examples of descriptors include "dinner", "platter", "entrée", "formula", and "recipe"; and
  - (C) The descriptor shall be in the same size, style, and color print as the ingredient name(s).
- (3) When a combination of ingredients are included in the product name, the product shall meet all of the following:
- (A) Each ingredient constitutes a least 3% of the product weight, excluding water;
  - (B) The names of the ingredients appear in the order of their respective predominance by weight in the product; and
  - (C) All the ingredient names appear on the label in the same size, style, and color print.
- (c) When the name of any ingredient appears in the product name of a pet food or elsewhere on the product label and includes a descriptor like "with" or similar designation, the named ingredient(s) shall each constitute at least 3% of the product weight exclusive of water for processing. If the names of more than one ingredient are shown, they shall appear in their respective order of predominance by weight in the product. The 3% minimum level shall not apply to claims for nutrients, including, but not limited to, vitamins, minerals, and fatty acids, as well as condiments. The word "with", or similar designation, and named ingredients shall be in the same size, style, color, and case print and be of no greater size than:

<b>Maximum "with claim"</b>	
<b>Panel Size</b>	<b>Type Size</b>
<5 sq. in.	1/8"
5-25 sq. in.	1/4"
25-100 sq. in.	3/8"
100-400 sq. in.	1/2"
400 sq. in +	1"

- (d) A flavor designation may be included as part of the product name or elsewhere on the label of a pet food or specialty pet food when the flavor designation meets all of the following:
  - (1) The flavor designation:
    - (A) Conforms to the name of the ingredient as listed in the ingredient statement; or
    - (B) Is identified by the source of the flavor in the ingredient statement; and
  - (2) The word "flavor" is printed in the same size type and with an equal degree of conspicuousness as the name of the flavor designation; and
  - (3) Substantiation of the flavor designation, the flavor claim, or the ingredient source is provided upon request.
- (e) The product name of the pet food or specialty pet food shall not be derived from one or more ingredients unless all ingredients are included in the name, except as specified by 35:30-27-53(b) or (c); provided the name of an ingredient or combination of ingredients may be used as a part of the product name if:
  - (1) The ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product or is present in amounts which have a material bearing upon the price of the product or upon acceptance of the product by the purchaser; or
  - (2) It does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients.
- (f) Contractions or coined names referring to ingredients shall not be used in the brand name of a pet food or specialty pet food unless it is in compliance with 35:30-27-53(b), (c), or (d).

**35:30-27-54. Expression of guarantees**

- (a) The "Guaranteed Analysis" shall be listed in the following order and format:
  - (1) A pet food or specialty pet food label shall list the following required guarantees:
    - (A) Minimum percentage of crude protein;
    - (B) Minimum percentage of crude fat;
    - (C) Maximum percentage of crude fat, if required by 35:30-27-60;

- (D) Maximum percentage of crude fiber;
  - (E) Maximum percentage of moisture; and
  - (F) Additional guarantees shall follow moisture.
- (2) When ash is listed in the guaranteed analysis on a pet food or specialty pet food label, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.
- (3) A dog or cat food label shall list other required or voluntary guarantees in the same order and units of the nutrients in the AAFCO Dog (or Cat) Food Nutrient Profiles. Guarantees for substances not listed in the AAFCO Dog (or Cat) Profiles, or not provided for in these rules, shall immediately follow the listing of the recognized nutrients and shall be accompanied by an asterisk (\*) referring to the disclaimer "not recognized as an essential nutrient by the AAFCO Dog (or Cat) Food Nutrient Profiles". The disclaimer shall appear immediately after the last guarantee in the same size type as the guarantees.
- (4) A specialty pet food label shall list other required or voluntary guarantees as required by Regulation 3a(4)X of AAFCO Model Bill.
- (b) The sliding scale method of expressing a guaranteed analysis on a pet food or specialty pet food label (for example, "Minimum crude protein 15-18%") is prohibited.
- (c) The label of a pet food or a specialty pet food which is formulated as and represented to be a mineral supplement shall include:
- (1) Minimum guarantees for all minerals from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed as the element in units specified in the nutrient profile; or
  - (2) Minimum guarantees for all minerals from sources declared in the ingredient statement expressed as the element in units specified in Regulation 4(b) of the AAFCO Model Bill when no species-specific nutrient profile has been recognized by AAFCO; and
  - (3) Mineral guarantees required by 35:30-27-54(c)(1) and (2) may be expressed in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and
  - (4) A weight equivalent (e.g., 1 fl. oz. = 28 grams) for liquid products.

- (d) The label of a pet food or a specialty pet food which is formulated as and represented to be a vitamin supplement shall include:
- (1) Minimum guarantees for all vitamins from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed in units specified in the nutrient profile; or
  - (2) Minimum guarantees for all vitamins from sources declared in the ingredient statement expressed in units specified in AAFCO Model Regulation 4(c) when no species-specific nutrient profile has been recognized by AAFCO; and
  - (3) Vitamin guarantees required by 35:30-27-54(d)(1) and (2), may be expressed in approved units (e.g., IU, mg, g) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and
  - (4) A weight equivalent (e.g., 1 fl. oz. = 28 grams) for liquid products.
- (e) When the label of a pet food or a specialty pet food includes a comparison of the nutrient content of the food with levels established by an AAFCO-recognized nutrient profile, the following apply:
- (1) The nutrient shall be stated in the units of measurement used in the cited AAFCO-recognized nutrient profile; and
  - (2) The statement in a table of comparison of the vitamin, mineral, or nutrient content shall constitute a guarantee, but need not be repeated in the guaranteed analysis; and
  - (3) The comparison may appear on the label separate and apart from the guaranteed analysis.
- (f) Percentages or other designations referring to an individual nutrient or all of the nutrient levels established by the AAFCO-recognized nutrient profile may be used on a pet food or specialty pet food when:
- (1) The product meets the AAFCO-recognized nutrient profile;
  - (2) The comparison is preceded by a statement that the product meets the AAFCO-recognized nutrient profile; and
  - (3) The comparison is expressed in the same quantitative units as those used by the cited AAFCO-recognized nutrient profile.

- (g) The maximum moisture declared on a pet food or specialty pet food label shall not exceed 78.00% of the natural moisture content of the ingredients, whichever is higher. However, pet food and specialty pet food including, but not limited to, those consisting principally of stew, gravy, sauce, broth, aspic, juice, or a milk replacer, and which are so labeled, may contain moisture in excess of 78.00%.
- (h) Guarantees for crude protein, crude fat, and crude fiber are not required when the pet food or specialty pet food is intended for purposes other than to furnish these substances or they are of minor significance relative to the primary purpose of the product, like mineral or vitamin supplement.

### **35:30-27-55. Ingredients**

- (a) Each ingredient of a pet food or specialty pet food shall be listed in the ingredient statement as follows:
  - (1) The names of all ingredients in the ingredient statement shall be shown in letters or type of the same size;
  - (2) The ingredients shall be listed in descending order by their predominance by weight in non-quantitative terms;
  - (3) Ingredients shall be listed and identified by the name and definition established by AAFCO; and
  - (4) Any ingredient for which no name and definition have been established shall be identified by the common or usual name of the ingredient.
- (b) The ingredients "meat" or "meat by-products" shall be qualified to designate the animal from which the meat or meat by-products are derived unless the meat or meat by-products are derived from cattle, swine, sheep, goats, or any combination. For example, ingredients derived from horses shall be listed as "horsemeat" or "horsemeat by-products".
- (c) Brand or trade names shall not be used in the ingredient statement.
- (d) A reference to the quality, nature, form, or other attribute of an ingredient shall be allowed when the reference meets all of the following:
  - (1) The designation is not false or misleading;
  - (2) The ingredient imparts a distinctive characteristic to the pet food or specialty pet food because it possesses that attribute; and
  - (3) A reference to quality or grade of the ingredient does not appear in the ingredient statement.

### **35:30-27-56. Additives and drugs**

- (a) An artificial color may be used in a pet food or a specialty pet food only if it has been shown to be harmless to pets or specialty pets. The permanent or provisional listing of an artificial color in the United States Food and Drug Administration regulations as safe for use, together with the conditions, limitations, and tolerances, if any, incorporated in those regulations, shall be satisfactory evidence that the color is, when used pursuant to the regulations, harmless to pets or specialty pets.
- (b) Evidence may be required to prove the safety and efficacy or utility of a pet food or specialty pet food which contains additives or drugs, when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food or specialty pet food may be established:
  - (1) When the pet food or specialty pet food contains these additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or which are "prior sanctioned" or "generally recognized as safe" for the use; or
  - (2) When the pet food or specialty pet food itself is a drug or contains a drug as defined in the Oklahoma Commercial Feed Act and is "generally recognized safe and effective" for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21, U.S.C. 360 (b).
- (c) When a drug is included in a pet food or specialty pet food, the format required by 35:30-27-3(2) for labeling medicated feeds shall be used.

### **35:30-27-57. Nutritional adequacy**

- (a) The label of a pet food or specialty pet food which is intended for all life stages of the pet or specialty pet may include an unqualified claim, directly or indirectly, like "complete and balanced", "perfect", "scientific", or "100% nutritious" if at least one of the following apply:
  - (1) The product meets the nutrient requirements for all life stages established by an AAFCO-recognized nutrient profile; or
  - (2) The product meets the criteria for all life stages as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol(s).
- (b) The label of a pet food or specialty pet which is intended for a limited purpose or a specific life stage, but not for all life stages, may include a qualified claim like "complete and balance", "perfect", "scientific", or "100% nutritious" when the product and claim meets all of the following:

- (1) The claim is qualified with a statement of the limited purpose or specific life stage for which the product is intended or suitable, for example, "complete and balanced for puppies" or "kittens". The claim and the required qualification shall be juxtaposed on the same label panel and in the same size, style, and color print; and
- (2) The product meets at least one of the following:
  - (A) The nutrient requirements for the limited purpose or specific life stage established by an AAFCO-recognized nutrient profile; or
  - (B) The criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol(s).
- (c) Dog and cat food labels shall include a statement of nutritional adequacy or purpose of the product except when the dog or cat food is clearly and conspicuously identified on the principal display panel as a "snack" or "treat". The statement shall consist of one of the following:
  - (1) A claim that the dog or cat food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation/lactation, growth, maintenance, and all life stages. The claim shall be stated verbatim as one of the following:
    - (A) "(Name of product) is formulated to meet the nutritional levels established by the AAFCO Dog (or Cat) Food Nutrient Profiles for (Blank)" (Blank is to be completed by using the stage or stages of the pet's life, like, gestation/lactation, growth, maintenance, or the words "All Life Stages"); or
    - (B) "Animal feeding test using AAFCO procedures substantiate that (Name of Product) provides complete and balance nutrition for (Blank)" (Blank is to be completed by using the stage or stages of the pet's life tested, like, gestation/lactation, growth, maintenance, or the words "All Life Stages"); or
    - (C) "(Name of Product) provides complete and balanced nutrition for (Blank)" (Blank is to be completed by using the stage or stages of the pet's life, like gestation/lactation, growth, maintenance, or the words "All Life Stages") and is comparable in nutritional adequacy to a product which has been substantiated using AAFCO feeding tests."
  - (2) A nutritional or dietary claim for purposes other than those listed in 35:30-27-57(a) or (b) if the claim is scientifically substantiated; or

- (3) The statement "This product is intended for intermittent or supplemental feeding only", if a product does not meet the requirements of 35:30-27-57(a) or (b) or any other special nutritional or dietary need and is suitable only for limited, intermittent, or supplementary feeding.
- (d) A product intended for use by, or under the supervision or direction of a veterinarian shall make a statement in accordance with 35:30-27-58(b).
- (e) A signed affidavit attesting that the product meets the requirements of 35:30-27-58(a) or (b) shall be submitted to the Board upon request.
- (f) If the nutrient content of a product does not meet those nutrient requirements established by an AAFCO-recognized nutrient profile, or if no requirement has been established by an AAFCO-recognized nutritional authority for the life stage(s) of the intended species, the claimed nutritional adequacy or purpose of the product shall be scientifically substantiated.

### **35:30-27-58. Feeding directions**

- (a) Dog or cat food, including snacks or treats, labeled as complete and balanced for any or all life stages, as provided in 35:30-27-57(c)(1), except those pet foods labeled in accordance with 35:30-27-57(d), shall list feeding directions on the product label. These directions shall be consistent with the intended use(s) indicated in the nutritional adequacy statement, unless a limited use or more limited life stage designation is declared (e.g. "adult formula"). These directions shall be expressed in common terms and shall appear prominently on the label. Feeding directions shall, at a minimum, state "Feed (weight/unit of product) per (weight only) of dog (or cat)". The frequency of feeding shall also be specified.
- (b) When a dog or cat food is intended for use by or under the supervision or direction of a veterinarian, the statement: "Use only as directed by your veterinarian" may be used in lieu of feeding directions.

### **35:30-27-59. Statements of calorie content**

- (a) Except as required in 35:30-27-60, the label of a dog or cat food may bear a statement of calorie content when the label meets all of the following:
  - (1) The statement shall be separate and distinct from the "Guaranteed Analysis" and shall appear under the heading "Calorie Content";
  - (2) The statement shall be measured in terms of metabolizable energy (ME) on an "as fed" basis and shall be expressed as "kilocalories per kilogram" ("kcal/kg") of product, and may also be expressed as kilocalories per familiar household measure (e.g., cans, cups, pounds); and

(3) The calorie content is determined by one of the following methods:

(A) By calculation using the following "Modified Atwater" formula:

$$\text{ME(kcal/kg)} = 10[(3.5 \times \text{CP}) + (8.5 \times \text{CF}) + (3.5 \times \text{NFE})]$$

Where: ME = Metabolizable Energy

CP = % crude protein "as fed"

CF = % crude fat "as fed"

NFE = % nitrogen-free extract(carbohydrate) "as fed"

and the percentages of CP and CF are the arithmetic averages from proximate analyses of at least four production batches of the product, and the NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture, and ash (determined in the same manner as CP and CF); or

(B) In accordance with a testing procedure established by AAFCO.

(4) An affidavit shall be provided upon request to the Board, substantiating that the calorie content was determined by:

(A) 35:30-27-59(a)(3)(A) in which case the results of all the analyses used in the calculation shall accompany the affidavit; or

(B) 35:30-27-59(a)(3)(B) in which case the summary data used in the determination of calorie content shall accompany the affidavit.

(5) The calorie content statement shall appear as one of the following:

(A) The claim on the label or other labeling shall be followed parenthetically by the word "calculated" when the calorie content is determined in accordance with 35:30-27-59(a)(3)(A); or

(B) The value of calorie content stated on the label which is determined in accordance with 35:30-27-59(a)(3)(B) shall not exceed or understate the value determined in accordance with 35:30-27-59(a)(3)(A) by more than 15%.

(b) Comparative claims shall not be false, misleading, or given undue emphasis and shall be based on the same methodology for the products compared.

### **35:30-27-60. Descriptive terms**

#### **(a) Calorie terms.**

(1) "Light"

- (A) A dog food product which bears on its label the terms "light", "lite", "low calorie", or words of similar designation shall:
- (i) Contain no more than 3100 kcal ME/kg for products containing less than 20% moisture, no more than 2500 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 900 kcal ME/kg for products containing 65% or more moisture; and
  - (ii) Include on the label a calorie content statement:
    - (I) In accordance with the format provided in 35:30-27-59; and
    - (II) Which states no more than 3100 kcal ME/kg for products containing less than 20%, moisture, no more than 2500 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 900 kcal ME/kg for products containing 65% or more moisture; and
    - (iii) Include on the label feeding directions which reflect a reduction in calorie intake consistent with the intended use.
- (B) A cat food product which bears on its label the terms "light", "lite", "low calorie", or words of similar designation shall:
- (i) Contain no more than 3250 kcal ME/kg for products containing less than 20% moisture, no more than 2650 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 950 kcal ME/kg for products containing 65% or more moisture; and
  - (ii) Include on the label a calorie content statement:
    - (I) In accordance with the format provided in 35:30-27-59; and
    - (II) Which states no more than 3250 kcal ME/kg for products containing less than 20% moisture, no more than 2650 kcal ME/kg for products containing 20% or more but less than 6% moisture, and no more than 950 kcal ME/kg for products containing 65% or more moisture; and
    - (III) Include on the label feeding directions which reflect a reduction in calorie intake consistent with the intended use.
- (2) "Less" or "Reduced Calories"
- (A) A dog or cat food product which bears on its label a claim of "less

calories", "reduce calories", or words of similar designation, shall include on the label:

- (i) The name of the product of comparison and the percentage of calorie reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label where the term appears; and
  - (ii) The comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and
  - (iii) A calorie content statement in accordance with the format provided in 35:30-27-59; and
  - (iv) Feeding directions which reflect a reduction in calories compared to feeding directions for the product of comparison.
- (B) A comparison between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

**(b) Fat terms.**

(1) "Lean"

- (A) A dog food product which bears on its label the terms "lean", "low fat", or words of similar designation shall:
- (i) Contain no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture; and
  - (ii) Include on the product label in the Guaranteed Analysis:
    - (I) A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in 35:30-27-54; and
    - (II) A maximum crude fat guarantee which is no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture.

- (B) A cat food product which bears on its label the terms "lean", "low fat", or words of similar designation shall:
  - (i) Contain a maximum percentage of crude fat which is no more than 10% crude fat for products containing less than 20% moisture, no more than 8% crude fat for products containing 20% or more but less than 65% moisture, and no more than 5% crude fat for products containing 65% or more moisture; and
  - (ii) Include on the product label in the Guaranteed Analysis:
    - (I) A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in 35:30-27-54; and
    - (II) A maximum crude fat guarantee which is no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture.

(2) "Less" or "Reduced Fat"

- (A) A dog or cat food product which bears on its label a claim of "less fat", "reduced fat", or words of similar designation, shall include on the label:
  - (i) The name of the product of comparison and the percentage of fat reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label where the term appears; and
  - (ii) The comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and
  - (iii) A maximum crude fat guarantee in the Guaranteed Analysis immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in 35:30-27-54.
- (B) A comparison on the label between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

**35:30-27-61. Manufacturer or distributor; name and address**

- (a) The label of a pet food or specialty pet food shall specify the name and address of the manufacturer or distributor. The statement of the place of business shall include the street address, city, state and zip code; however, the street address may be omitted if the street address is shown in a current city directory or telephone directory for the city listed on the label.
- (b) When a person manufactures or distributes a pet food or specialty pet food in a place other than the principal place of business, the label may state the principal place of business in lieu of the actual place where each package of the pet food or specialty pet food was manufactured or packaged or from where each package is to be distributed.