

Chapter ATCP 42

COMMERCIAL FEED

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Note: Chapter Ag 18 was renumbered chapter ATCP 42 under s. 13.93 (2m) (b) L. Stats., Register, April, 1993, No. 448. Chapter ATCP 42 as it existed on September 30, 1997 was repealed and a new chapter ATCP 42 was created effective October 1, 1997.

Subchapter I—Definitions

ATCP 42.01 Definitions. In this chapter:

(1) "Brand name" means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor or labeler and distinguishing it from that of others.

(2) "Commercial feed" means any feed, including any custom-mixed or mill formulated feed, that is sold or bartered, or offered for sale or barter, but does not include any of the following:

(a) Unmixed whole seeds or grains identified in United States grain standards.

(b) Unmixed ground corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir, milo, or other unmixed ground seeds or grain.

(c) Whole hays, straws, cottonseed hulls, stover and silage, when unmixed with other materials.

(d) Meat and other portions of animal carcasses in their raw or natural state without further processing except freezing or denaturing.

(3) "Custom-mixed feed" means a commercial feed which a manufacturer prepares at the request of a final retail purchaser according to a formula specified by that final retail purchaser, whether or not that final retail purchaser obtained that formula from a 3rd-party source. Custom-mixed feed does not include a mill-formulated feed.

(4) "Distribute" means to sell, offer to sell, exchange, barter or solicit orders for the sale of a feed product or otherwise supply or furnish a feed product to purchasers of the feed product in this state, whether or not the sales or transactions are made wholly or partially in this state or another state.

(5) "Distributor" means any person who distributes a feed product for sale or distribution in this state.

(6) "Dog or cat food" means a commercial feed intended for dogs or cats.

(7) "Drug" means either of the following:

(a) Any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than humans.

(b) Any substance, other than a nutritive component, that is intended to affect the structure or any function of the animal body.

(8) "Feed" means any substance which is intended for use as food for animals other than humans. "Feed" includes commercial feed and feed ingredients.

(9) "Feed ingredient" means a constituent material, used in the manufacture of a commercial feed, that becomes part of the commercial feed.

(10) "Label" means the written, printed, or graphic matter on or attached to the container in which a commercial feed is distributed, or the invoice or delivery slip for the commercial feed.

(11) "Labeler" means a person who labels commercial feed. "Labeler" includes a person, other than the final retail purchaser, who retains the proprietary rights to the specifications of a commercial feed.

(12) "Labeling" means all labels and any other written, printed or graphic matter referencing a commercial feed.

(13) "Manufacture" means to mix, blend, process, package or label commercial feed.

(14) "Mill formulated feed" means a commercial feed consisting of a mixture of commercial feeds or feed ingredients mixed on an individual basis by the feed manufacturer or labeler according to a feed formula devised and prepared by the manufacturer or labeler for a final retail customer of the manufacturer or labeler.

(15) "Noxious weed seeds" mean the seeds of Canada thistle, wild mustard and quack grass, either single or combined.

(16) "Person" means an individual, corporation, partnership, limited liability company, cooperative, business trust, or business association or entity.

(17) "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.

(18) "Product name" means the name of a commercial feed which identifies it as to kind, class, or specific use.

(19) "Type A medicated article" has the meaning given under 21 CFR 558.3.

(20) "Type B medicated feed" has the meaning given under 21 CFR 558.3.

(21) "Type C medicated feed" has the meaning given under 21 CFR 558.3.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

Subchapter II—Commercial Feed License

ATCP 42.02 Commercial feed license. (1) LICENSE REQUIRED. Except as provided under sub. (2), no person may

manufacture, label or distribute a commercial feed in this state without an annual commercial feed license issued by the department. A person paid by the final retail purchaser of a mill-formulated feed to provide specifications for that feed is engaged in manufacturing, labeling or distributing a commercial feed within the meaning of this subsection.

(2) EXEMPTIONS. A person may do any of the following without a license under sub. (1):

(a) Distribute packaged commercial feed in the original package in which that feed was packaged and labeled by a licensed manufacturer or distributor whose name and address appears on the package label.

(b) Distribute bulk commercial feed which is all of the following:

1. Distributed in the same form, but not necessarily in the same quantities, in which it is received from a licensed manufacturer or distributor.

2. Labeled with information which, with the possible exception of the net quantity declaration, is identical to that provided by the licensed manufacturer or distributor from whom the bulk commercial feed is received.

(c) Manufacture or distribute a custom-mixed feed, provided that the manufacturer of that custom-mixed feed does all of the following:

1. Distributes that custom-mixed feed only to the retail purchaser for whom the feed was custom-mixed.

2. Obtains all commercial feeds used as ingredients in that custom-mixed feed only from licensed manufacturers or distributors.

3. Possesses a contract, invoice or sales receipt from the supplier of each commercial feed ingredient used in the custom-mixed feed, showing that the supplier has paid or will pay all inspection fees required under s. 94.72(6), Stats., for that commercial feed ingredient.

(d) Manufacture or distribute commercial feed as an authorized employee of a person, licensed under sub. (1), whose name and address appear on the feed label.

(3) LICENSE APPLICATION. A person applying for an annual license under sub. (1) shall submit an application on a form provided by the department. The application shall include all of the following:

(a) The name and business address of the applicant.

(b) The address of each business location in this state at which the applicant engages in activities for which a license is required under sub. (1).

(c) The license fees required under sub. (4).

(d) The inspection fees and feed tonnage report required under s. 94.72 (6), Stats. A feed manufacturer is not required to pay inspection fees on either of the following:

1. Grain used in a mill formulated feed if that grain is owned and provided by the final retail purchaser of that feed.

2. Grain used in a custom-mixed feed.

(e) Other relevant information required by the department.

(4) LICENSE FEES. A person required to be licensed under sub. (1) shall annually pay all of the following license fees:

(a) A basic license fee of \$25.

(b) A supplementary license fee of \$25 for each business location under sub. (3) (b), except that no supplementary license fee is required for either of the following:

1. A business location which is the applicant's sole business location in this state.

2. A business location at which the applicant engages only in manufacturing or distributing custom-mixed feed to retail purchasers.

(5) LICENSE EXPIRES. A license under sub. (1) expires on the last day of February of each year.

(6) FEES ARE NONREFUNDABLE. License fees under sub. (4) and inspection fees under s. 94.72 (6), Stats., are nonrefundable, and may not be prorated for any part of a license year.

(7) LICENSE NOT TRANSFERABLE. A license under sub. (1) is not transferable between persons or business locations. Before a license holder engages in any activity for which a license is required under sub. (1) at any business location which the license holder has failed to identify under sub. (3) (b), the license holder shall identify that business location to the department and shall pay any supplementary license fee required for that location under sub. (4) (b).

Note: You may obtain a commercial feed license application by writing The Wisconsin Department of Agriculture, Trade and Consumer Protection, Feed Section at P.O. Box 8911, Madison, WI 53708-8911.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

Subchapter III — Commercial Feed Labeling; General

ATCP 42.04 Commercial feed label. (1) GENERAL. Commercial feed, other than custom-mixed feed or dog or cat food, shall be labeled according to this subchapter. Custom-mixed feed shall be labeled according to subch. IV. Dog and cat food shall be labeled according to subch. V.

(2) LABEL CONTENTS. Commercial feed, other than custom-mixed feed or dog or cat food, shall be labeled with all of the following information in the following order:

(a) The product name of the commercial feed, and its brand name if any, as required under s. ATCP 42.06.

(b) The information required under s. ATCP 42.08 if the commercial feed contains any drug.

(c) The statement of purpose required under s. ATCP 42.10.

(d) The guaranteed analysis required under ss. ATCP 42.12 and 42.14.

(e) An ingredient statement if required under s. ATCP 42.16.

(f) Use directions and precautionary statements, if required under s. ATCP 42.22.

(g) The name and address of the manufacturer or distributor, as required under s. ATCP 42.18.

(h) A declaration of net quantity, as required under s. ATCP 42.20.

(3) LABEL FORM AND LOCATION. (a) If commercial feed is distributed in packaged form, the label information required under sub. (2) shall appear on the principal display panel of the commercial feed package. Use directions and precautionary statements under sub. (2) (f) may be disclosed on a portion of a feed package other than the principal display panel if the principal display panel clearly discloses where they may be found.

(b) If commercial feed is distributed in bulk, the label information required under sub. (2) shall appear on a bulk delivery slip which accompanies the commercial feed.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.06 Product and brand names. (1) GENERAL. A commercial feed shall be labeled with its product name and its brand name if any. No product or brand name may contain any statement or representation that is false, deceptive or misleading.

(2) USE OF INGREDIENT NAMES. No product or brand name may identify any ingredient of a commercial feed to the exclusion of any other ingredient unless all of the following apply:

(a) The identified ingredient imparts to the commercial feed a distinctive characteristic which is significant to purchasers.

(b) The identified ingredient is included in the guaranteed analysis under ss. ATCP 42.12 and 42.14.

(c) The product or brand name is not deceptive or misleading.

(3) **SINGLE-INGREDIENT FEEDS.** Product names for single-ingredient commercial feeds shall be consistent with the feed ingredient definitions specified in the 1996 official publication of the association of American feed control officials.

Note: Copies of the official publication of the association of American feed control officials are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from AAFCO treasurer; the name and address of the current AAFCO treasurer may be obtained by contacting the department.

(4) **PROHIBITIONS.** (a) No person may label a commercial feed with a product or brand name that is any of the following:

1. Inconsistent with the statement of purpose under s. ATCP 42.10.
2. Copyrighted by another person, except with that person's specific authorization.

(b) No person may incorporate a product or brand name as part of a guaranteed analysis under s. ATCP 42.12 or 42.14, or an ingredient statement under s. ATCP 42.16.

(c) No product or brand name may do any of the following:

1. Use the word "protein" if non-protein nitrogen has been added to the commercial feed.
2. Make any claim related to the percentage contents of any commercial feed ingredient or component, other than protein or equivalent protein.
3. Use the word "vitamin," or any word or abbreviation suggesting the word "vitamin," unless the commercial feed is represented as a vitamin supplement and its vitamin contents are stated in the guaranteed analysis under ss. ATCP 42.12 and 42.14.
4. Use the word "mineralized," except as part of the term "trace mineralized salt."

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.08 Medicated commercial feeds. (1) **LABEL REQUIREMENTS.** If a commercial feed contains one or more drugs, the label shall include all of the following:

(a) The word "medicated," printed directly after and below the product name in a type size no smaller than one-half the type size of the product name.

(b) A statement which clearly explains the purpose for each drug contained in the feed.

(c) A statement of active drug ingredients. The statement shall include the established name and, except as provided under sub. (2), the guaranteed amount of each active drug ingredient. Drug guarantees shall be expressed according to sub. (3).

(d) Directions for use and precautionary statements under s. ATCP 42.22.

(2) **GROWTH PROMOTION OR FEED EFFICIENCY DRUGS.** Except as provided under 21 CFR 558, a feed label need not specify drug amounts for growth promotion or feed efficiency drugs in commercial feeds that are fed continuously as a sole ration.

(3) **FORM OF DRUG GUARANTEES.** (a) Except as provided under par. (c), if a drug is present at a concentration of less than 2,000 grams per ton of commercial feed, the drug guarantee shall be expressed in grams per ton.

(b) Except as provided under par. (c), if a drug is present at a concentration of at least 2,000 grams per ton of commercial feed, the drug guarantee shall be expressed in grams per pound.

(c) If a drug dosage in milligrams is included in the use directions under s. ATCP 42.22, a drug guarantee may be expressed in milligrams per weight unit of commercial feed. The weight unit of commercial feed shall be consistent with weight units, if any, used in the declaration of net quantity under s. ATCP 42.20 and the use directions under s. ATCP 42.22.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.10 Statement of purpose. (1) **REQUIREMENT.** Except as provided under sub. (2), a commercial feed shall be labeled with a statement of purpose that identifies all of the following:

(a) The species and classes of animals for which the feed is intended. A commercial feed may also be labeled with the weight ranges, sex, or ages of the animals for which the feed is intended.

(b) The specific intended use of the feed, unless the feed is intended as a complete feed for all species and classes of animals identified on the feed label.

(2) **EXEMPTIONS.** Subsection (1) does not apply to any of the following:

(a) An ingredient or combination of ingredients sold as a specialized nutritional source for use in manufacturing other feeds.

(b) Grain or grain mixtures, with or without molasses, provided that both of the following apply:

1. The grain or grain mixture contains no drug or other additive.
2. The seller makes no specific feed claim for the grain or grain mixture.

(3) **SWINE FEED.** The following terms, when used to label a swine commercial feed, indicate that the feed is intended for the following corresponding classes of swine:

- (a) "Pre-Starter" for swine weighing 2 to 11 pounds.
- (b) "Starter" for swine weighing 11 to 44 pounds.
- (c) "Grower" for swine weighing 44 to 110 pounds.
- (d) "Finisher" for swine weighing 110 to 242 pounds.
- (e) "Gilts, Sows and Boars" for that class of swine.
- (f) "Lactating Gilts and Sows" for that class of swine.

(4) **POULTRY FEED.** The following terms, when used to label a poultry commercial feed, indicate that the feed is intended for the following corresponding classes of poultry:

(a) "Layer" for chickens that are grown to produce eggs for human food.

(b) "Layer Starting/Growing" for chickens, grown to produce eggs for human food, that are less than 10 weeks old.

(c) "Layer Finisher" for chickens, grown to produce eggs for human food, that are at least 10 weeks old but not yet laying eggs.

(d) "Layer Laying" for chickens that are currently laying eggs for human food.

(e) "Layer Breeders" for chickens that are currently producing offspring grown to produce eggs for human food.

(f) "Broilers" for chickens that are grown for human food.

(g) "Broilers Starting/Growing" for chickens less than 5 weeks old that are being grown for human food.

(h) "Broilers Finisher" for chickens over 5 weeks old that are being fed for marketing as human food.

(i) "Broilers Breeders" for chickens from strains whose offspring are grown for human food.

(j) "Broilers Breeders Starting/Growing" for chickens that are both of the following:

1. From strains whose offspring are grown for human food.
2. Less than 10 weeks old.

(k) "Broilers Breeders Finishing" for chickens that are all of the following:

1. From strains whose offspring are grown for human food.
2. At least 10 weeks old.
3. Not yet laying eggs.

(l) "Broilers Breeders Laying" for chickens that are all of the following:

1. From strains whose offspring are grown for human food.
2. Grown to produce offspring used for human food as broilers or roasters.
3. Currently laying fertile eggs.

(m) "Turkeys Starting/Growing" for male turkeys less than 13 weeks old that are being grown for human food.

(n) "Turkeys Finisher" for turkeys, grown for human food, that are one of the following:

1. Females that are 13 weeks to 17 weeks old.
2. Males at least 16 weeks old that are being fed for market.
- (o) "Turkeys Laying" for female turkeys that are currently producing eggs.

(p) "Turkeys Breeder" for turkeys, grown to produce fertile eggs, that are not yet producing fertile eggs.

(5) **BEEF CATTLE FEED.** The following terms, when used to label a beef cattle commercial feed, indicate that the feed is intended for the following corresponding classes of beef cattle:

- (a) "Calves" for beef cattle from birth to weaning.
- (b) "Cattle on pasture" for weaned cattle other than feedlot cattle. The word "cattle" may be replaced by a more specific word such as stockers, feeders, replacement heifers, brood cows or bulls.

(c) "Feedlot cattle" for weaned cattle kept in a feedlot.

(6) **DAIRY CATTLE FEED.** The following terms, when used to label a dairy cattle commercial feed, indicate that the feed is intended for the following corresponding classes of dairy cattle:

- (a) "Veal milk replacer" for milk replacer fed to veal calves.
- (b) "Herd milk replacer" for milk replacer fed to herd replacement calves.
- (c) "Starter" for dairy animals 3 days to 3 months old.
- (d) "Growing Heifers, Bulls and Dairy Beef — Grower (1)" for dairy animals 3 to 12 months old.

(e) "Growing Heifers, Bulls and Dairy Beef — Grower (2)" for dairy animals more than 12 months old.

(f) "Lactating Dairy Cattle" for dairy cattle of that class.

(g) "Non-Lactating Dairy Cattle" for dairy cattle of that class.

(7) **EQUINE FEED.** The following terms, when used to label an equine commercial feed, indicate that the feed is intended for the following classes of equine:

- (a) "Foal" for equine of that class.
- (b) "Mare" for equine of that class.
- (c) "Breeding" for equine of that class.
- (d) "Maintenance" for equine of that class.

(8) **SHEEP AND GOAT FEED.** The following terms, when used on a sheep or goat commercial feed, indicate that the feed is intended for the following corresponding classes of sheep and goats:

- (a) "Starter" for sheep and goats of that class.
- (b) "Grower" for sheep and goats of that class.
- (c) "Finisher" for sheep and goats of that class.
- (d) "Breeder" for sheep and goats of that class.
- (e) "Lactating" for sheep and goats of that class.

(9) **DUCK AND GOOSE FEED.** The following terms, when used to label a duck or goose commercial feed, indicate that the feed is intended for the following corresponding classes of ducks and geese:

- (a) "Ducks — Starter" for ducks less than 3 weeks old.
- (b) "Ducks — Grower" for ducks 3 to 6 weeks old.
- (c) "Ducks — Finisher" for ducks more than 6 weeks old that are being fed for market.
- (d) "Ducks — Breeder Developer" for ducks 8 to 19 weeks old.
- (e) "Ducks — Breeder" for ducks more than 22 weeks old that are currently laying eggs.
- (f) "Geese — Starter" for geese less than 4 weeks old.
- (g) "Geese — Grower" for geese 4 to 8 weeks old.
- (h) "Geese — Finisher" for geese more than 8 weeks old that are being fed for market.
- (i) "Geese — Breeder Developer" for geese 10 to 22 weeks old.
- (j) "Geese — Breeder" for geese more than 22 weeks old that are currently laying eggs.

(10) **RABBIT FEED.** The following terms, when used to label a rabbit commercial feed, indicate that the feed is intended for the following corresponding classes of rabbits:

- (a) "Rabbit — Grower" for rabbits 4 to 12 weeks old.
- (b) "Rabbit — Breeder" for rabbits more than 12 weeks old.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.12 Guaranteed analysis; general.

(1) **GUARANTEED ANALYSIS REQUIRED.** Every commercial feed shall be clearly and conspicuously labeled with a guaranteed analysis, entitled "GUARANTEED ANALYSIS." The guaranteed analysis shall include all of the following:

(a) A minimum guarantee for each of the following substances, unless the commercial feed is clearly labeled for a specialized purpose that is unrelated to the content of those substances:

1. Crude protein.
2. Equivalent crude protein from non-protein nitrogen, if present. Guarantees shall comply with applicable requirements under s. ATCP 42.54.

3. Crude fat.

(b) A maximum guarantee for crude fiber, unless the commercial feed is clearly labeled for a specialized purpose that is unrelated to its crude fiber content.

(c) Mineral guarantees under sub. (3) if the commercial feed is sold wholly or in part for its mineral content. Except as provided under s. ATCP 42.14, mineral guarantees are not required if the commercial feed is intended solely for non-food producing animals and contains less than 6.5% total minerals. Mineral guarantees shall comply with sub. (3).

(d) A minimum guarantee for each vitamin contained in the feed if the feed is sold wholly or in part for its vitamin content. A vitamin guarantee shall comply with sub. (4).

(e) A minimum microorganism guarantee if the commercial feed is sold wholly or in part for its microorganism content. Microorganism guarantees shall comply with sub. (5).

(f) For dried molasses products or products sold primarily for their sugar content, a minimum guarantee of total sugars as invert.

(g) For a commercial feed intended as a specialized nutrient source primarily for use in the manufacture of other commercial feeds, a minimum guarantee for each nutrient which is relevant to that purpose.

(h) Additional guarantees, if any, that are required for a specific class of commercial feed under s. ATCP 42.14.

(2) **FORM OF GUARANTEES; GENERAL.** (a) Every guarantee under sub. (1) shall clearly identify the substance guaranteed.

(b) A guarantee under sub. (1) shall be expressed as a percentage by weight of commercial feed unless this section or s. ATCP 42.14 requires that the guarantee be expressed in a different form.

(c) The following guarantees, if present, shall appear in the following order:

1. Crude protein.
2. Equivalent crude protein from non-protein nitrogen.
3. Amino acids.
4. Crude fat.
5. Crude fiber.
6. Acid detergent fiber.
7. Calcium.
8. Phosphorus.
9. Salt.
10. Sodium.
11. Other minerals.
12. Vitamins.
13. Total sugar as invert.
14. Viable microorganisms producing lactic acid.

15. Other guarantees. Other guarantees shall be arranged so that guarantees expressed in the same unit of weight, measure or count are grouped together.

(3) MINERAL GUARANTEES. (a) Mineral guarantees, if required under sub. (1) (c), shall include all of the following:

1. A minimum and maximum guarantee for calcium, if present.
2. A minimum guarantee for phosphorus, if present.
3. A minimum and maximum guarantee for salt, if added.
4. A minimum and maximum guarantee for total sodium if total sodium exceeds that furnished by the maximum salt guarantee under par. (d) 1.
5. A maximum guarantee for fluoride, if present.
6. Minimum guarantees for other minerals that are present in significant amounts.

(b) In a guaranteed analysis, the maximum guarantee for calcium, salt or total sodium may not exceed the minimum guarantee by more than the following applicable amount:

1. If the minimum guarantee is less than 2.5% by weight of the commercial feed, the maximum may not exceed the minimum by more than 0.5% of the weight of the commercial feed.
2. If the minimum guarantee is at least 2.5% by weight of the commercial feed, but less than 5.0%, the maximum guarantee may not exceed the minimum by more than 1.0% of the weight of the commercial feed.
3. If the minimum guarantee is at least 5.0% by weight of the commercial feed, the maximum guarantee may not exceed the minimum by more than 20% of the minimum guarantee, or by more than 5.0% of the weight of the commercial feed, whichever is less.

(c) Except as provided under par. (d) or (e), mineral guarantees shall be stated as follows:

1. In parts per million (ppm) if the mineral content is less than 10,000 parts per million.
2. As a percentage by weight if the concentration is 10,000 parts per million or greater.

(d) Except as provided under par. (e), the following mineral guarantees shall be stated as percentages by weight of commercial feed:

1. Minimum and maximum guarantees for calcium, total sodium and salt.
2. Minimum guarantees for potassium, magnesium, sulfur, phosphorus.
3. Maximum guarantees for fluoride.

(e) If a commercial feed is sold in tablet, capsule, granular or liquid form, a mineral guarantee shall be expressed in milligrams (mg) per unit weight of the commercial feed. Weight units of commercial feed shall be consistent with weight units, if any, used in the declaration of net quantity under s. ATCP 42.20 and in the use directions under s. ATCP 42.22.

(4) VITAMIN GUARANTEES. (a) If any of the following vitamins are guaranteed, the guarantees shall be listed in the guaranteed analysis in the following order and in the following form:

1. Guarantees for vitamin A, other than precursors of vitamin A, shall be stated in international units of vitamin A per weight unit of commercial feed.
2. Vitamin D-3 guarantees in products sold for poultry feeding shall be stated in international chick units of vitamin D-3 per weight unit of commercial feed.
3. Vitamin D guarantees shall be stated in international units of vitamin D per weight unit of commercial feed.
4. Vitamin E guarantees shall be stated in international units of vitamin E per weight unit of commercial feed.
5. Vitamin B-12 guarantees shall be stated in milligrams or micrograms per weight unit of commercial feed.

6. Other vitamin guarantees shall be stated in units appropriate to those vitamins.

(b) Weight units of commercial feed under par. (a) shall be consistent with the weight units, if any, used in the declaration net quantity under s. ATCP 42.20 and in the use directions under s. ATCP 42.22.

(5) MICROORGANISM GUARANTEES. Microorganism guarantees shall be stated in viable colony forming units per weight unit of commercial feed. The weight unit of commercial feed shall be consistent with weight units, if any, used in the declaration of net quantity under s. ATCP 42.20 and the use directions under s. ATCP 42.22. A parenthetical statement following the guarantee shall list each microorganism species in order of predominance.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.14 Guaranteed analysis; specific feeds.

(1) SWINE FEED. The guaranteed analysis for a swine commercial feed shall include all of the following, whether or not required under s. ATCP 42.12:

- (a) A minimum guarantee for crude protein.
- (b) A minimum guarantee for lysine.
- (c) A minimum guarantee for crude fat.
- (d) A maximum guarantee for crude fiber.
- (e) A minimum and maximum guarantee for calcium.
- (f) A minimum guarantee for phosphorus.
- (g) A minimum and maximum guarantee for salt, if added.
- (h) A minimum and maximum guarantee for total sodium if total sodium exceeds that furnished by the maximum salt guarantee under par. (g).
- (i) A minimum guarantee for selenium, stated in parts per million.
- (j) A minimum guarantee for zinc, stated in parts per million.

(2) POULTRY FEED. The guaranteed analysis for a poultry commercial feed shall include all of the following, whether or not required under s. ATCP 42.12:

- (a) A minimum guarantee for crude protein.
- (b) A minimum guarantee for lysine.
- (c) A minimum guarantee for methionine.
- (d) A minimum guarantee for crude fat.
- (e) A maximum guarantee for crude fiber.
- (f) A minimum and maximum guarantee for calcium.
- (g) A minimum guarantee for phosphorus.
- (h) A minimum and maximum guarantee for salt, if added.
- (i) A minimum and maximum guarantee for total sodium, if total sodium exceeds that furnished by the maximum salt guarantee under par. (h).

(3) BEEF CATTLE FEED; GENERAL. The guaranteed analysis for a beef cattle commercial feed shall include all of the following, whether or not required under s. ATCP 42.12:

- (a) A minimum guarantee for crude protein.
- (b) A maximum guarantee for equivalent crude protein from non-protein nitrogen, if added.
- (c) A minimum guarantee for crude fat.
- (d) A maximum guarantee for crude fiber.
- (e) A minimum and maximum guarantee for calcium.
- (f) A minimum guarantee for phosphorus.
- (g) A minimum and maximum guarantee for salt, if added.
- (h) A minimum and maximum guarantee for total sodium, if total sodium exceeds that furnished by the maximum salt guarantee under par. (f).
- (i) A minimum guarantee for potassium.
- (j) A minimum guarantee for vitamin A, other than precursors of vitamin A, if added.

(4) BEEF CATTLE FEED; MINERAL SUPPLEMENTS. If a commercial feed is primarily intended to supply mineral nutrients for beef

cattle, its guaranteed analysis shall include all of the following, whether or not required under s. ATCP 42.12:

- (a) A minimum and maximum guarantee for calcium.
- (b) A minimum guarantee for phosphorus.
- (c) A minimum and maximum guarantee for salt.
- (d) A minimum and maximum guarantee for total sodium, if total sodium exceeds that furnished by the maximum salt guarantee under par. (c).
- (e) A minimum guarantee for magnesium.
- (f) A minimum guarantee for potassium.
- (g) A minimum guarantee for copper, stated in parts per million.
- (h) A minimum guarantee for selenium, stated in parts per million.
- (i) A minimum guarantee for zinc, stated in parts per million.
- (j) A minimum guarantee for vitamin A, other than precursors of vitamin A.

(5) MILK REPLACER FED TO CALVES. The guaranteed analysis for a milk replacer intended to be fed to calves shall include a minimum guarantee for all of the following, whether or not required under s. ATCP 42.12:

- (a) A minimum guarantee for crude protein.
- (b) A minimum guarantee for crude fat.
- (c) A maximum guarantee for crude fiber.
- (d) A minimum and maximum guarantee for calcium.
- (e) A minimum guarantee for phosphorus.
- (f) A minimum guarantee for vitamin A, other than precursors of vitamin A, if added.

(6) DAIRY CATTLE FEED; GENERAL. The guaranteed analysis for a dairy cattle commercial feed, other than a milk replacer under sub. (5), shall include all of the following, whether or not required under s. ATCP 42.12:

- (a) A minimum guarantee for crude protein.
- (b) A maximum guarantee for equivalent crude protein from non-protein nitrogen, if added.
- (c) A minimum guarantee for crude fat.
- (d) A maximum guarantee for crude fiber.
- (e) A maximum guarantee for acid detergent fiber.
- (f) A minimum and maximum guarantee for calcium.
- (g) A minimum guarantee for phosphorus.
- (h) A minimum guarantee for selenium, stated in parts per million.
- (i) A minimum guarantee for vitamin A, other than precursors of vitamin A, if added.

(7) DAIRY CATTLE; MINERAL SUPPLEMENTS. If a commercial feed is primarily intended to provide mineral elements, inorganic nutrients or vitamins to dairy cattle, its guaranteed analysis shall include all of the following, whether or not required under s. ATCP 42.12:

- (a) A minimum and maximum guarantee for calcium.
- (b) A minimum guarantee for phosphorus.
- (c) A minimum and maximum guarantee for salt.
- (d) A minimum and maximum guarantee for total sodium, if total sodium exceeds that furnished by the maximum salt guarantee under par. (c).
- (e) A minimum guarantee for magnesium.
- (f) A minimum guarantee for potassium.
- (g) A minimum guarantee for selenium, stated in parts per million.
- (h) A minimum guarantee for vitamin A, other than the precursors of vitamin A.

(8) EQUINE FEEDS; GENERAL. The guaranteed analysis for an equine commercial feed shall include all of the following, whether or not required under s. ATCP 42.12:

- (a) A minimum guarantee for crude protein.
- (b) A minimum guarantee for crude fat.
- (c) A maximum guarantee for crude fiber.
- (d) A minimum and maximum guarantee for calcium.
- (e) A minimum guarantee for phosphorus.
- (f) A minimum guarantee for copper, stated in parts per million.
- (g) A minimum guarantee for selenium, stated in parts per million.
- (h) A minimum guarantee for zinc, stated in parts per million.
- (i) A minimum guarantee for vitamin A, other than the precursors of vitamin A, if added.

(9) EQUINE FEEDS; MINERAL SUPPLEMENTS. If a commercial feed is primarily intended to provide mineral elements, inorganic nutrients or vitamins to equine, its guaranteed analysis shall include all of the following, whether or not required under s. ATCP 42.12:

- (a) A minimum and maximum guarantee for calcium.
- (b) A minimum guarantee for phosphorus.
- (c) A minimum and maximum guarantee for salt.
- (d) A minimum and maximum guarantee for total sodium, if total sodium exceeds that furnished by the maximum salt guarantee under par. (c).
- (e) A minimum guarantee for copper, stated in parts per million.
- (f) A minimum guarantee for selenium, stated in parts per million.
- (g) A minimum guarantee for zinc, stated in parts per million.
- (h) A minimum guarantee for vitamin A, other than the precursors of vitamin A.

(10) SHEEP AND GOAT FEED. The guaranteed analysis for a sheep or goat commercial feed shall include all of the following, whether or not required under s. ATCP 42.12:

- (a) A minimum guarantee for crude protein.
- (b) A maximum guarantee for equivalent crude protein from non-protein nitrogen, if added.
- (c) A minimum guarantee for crude fat.
- (d) A maximum guarantee for crude fiber.
- (e) A minimum and maximum guarantee for calcium.
- (f) A minimum guarantee for phosphorus.
- (g) A minimum and maximum guarantee for salt, if added.
- (h) A minimum and maximum guarantee for total sodium, if total sodium exceeds that furnished by the maximum salt guarantee under par. (g).

(i) A minimum and maximum guarantee for copper, stated in parts per million, if copper is added or exceeds 20 ppm.

(j) A minimum guarantee for selenium, stated in parts per million.

(k) A minimum guarantee for vitamin A, other than precursors of vitamin A, if added.

(11) DUCK AND GOOSE FEED. The guaranteed analysis for a duck or goose commercial feed shall include all of the following, whether or not required under s. ATCP 42.12:

- (a) A minimum guarantee for crude protein.
- (b) A minimum guarantee for crude fat.
- (c) A maximum guarantee for crude fiber.
- (d) A minimum and maximum guarantee for calcium.
- (e) A minimum guarantee for phosphorus.
- (f) A minimum and maximum guarantee for salt, if added.

(g) A minimum and maximum guarantee for total sodium, if total sodium exceeds that furnished by the maximum salt guarantee under par. (f).

(12) FISH FEED. The guaranteed analysis for fish commercial feed shall include all of the following, whether or not required under s. ATCP 42.12:

- (a) A minimum guarantee for crude protein.
- (b) A minimum guarantee for crude fat.
- (c) A maximum guarantee for crude fiber.
- (d) A minimum guarantee for phosphorus.

(13) RABBIT FEED. The guaranteed analysis for rabbit commercial feed shall include all of the following, whether or not required under s. ATCP 42.12:

- (a) A minimum guarantee for crude protein.
- (b) A minimum guarantee for crude fat.
- (c) A minimum and maximum guarantee for crude fiber. The maximum guarantee may not exceed the minimum guarantee by more than 5 percentage units.
- (d) A minimum and maximum guarantee for calcium.
- (e) A minimum guarantee for phosphorus.
- (f) A minimum and maximum guarantee for salt, if added.
- (g) A minimum and maximum guarantee for total sodium, if total sodium exceeds that furnished by the maximum salt guarantee under par. (f).
- (h) A minimum guarantee for vitamin A, other than precursors of vitamin A, if added.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.16 Ingredient statement. (1) INGREDIENT STATEMENT REQUIRED. (a) Except as provided under par. (b), every commercial feed shall be labeled with an ingredient statement, clearly identified as such, which lists the name of each ingredient from which that commercial feed is manufactured.

(b) Paragraph (a) does not apply to a commercial feed which is defined as a single ingredient feed product by the 1996 official publication of the association of American feed control officials.

Note: Copies of the official publication of the association of American feed control officials are on file with the department, the secretary of state and the revisor of statutes. You may also obtain a copy from the AAFCO treasurer whose address is available from the department.

(2) INGREDIENT NAMES. Every ingredient name used in an ingredient statement under sub. (1) shall be printed in the same size and type, and shall be one of the following:

- (a) The common or usual name of that ingredient.
- (b) The official name of that ingredient as stated in the 1996 official publication of the association of American feed control officials.
- (c) An appropriate collective term under sub. (4) which accurately describes that ingredient. If an ingredient statement includes a collective term that describes one or more individual ingredients, none of those individual ingredients may be listed in the ingredient statement under any other name.

(3) PROHIBITED TERMS. No ingredient statement under sub. (1) may include any of the following:

- (a) A reference to the grade or quality of an ingredient.
- (b) The term "dehydrated," unless used to describe a feed ingredient that has been artificially dried.
- (c) The word "iodized," except to describe a feed ingredient containing not less than 0.007 percent iodine uniformly distributed in the feed ingredient.
- (d) A feed ingredient used as a carrier for drugs, vitamins or trace minerals, unless that ingredient comprises at least one percent of the commercial feed by weight.

(4) COLLECTIVE TERMS. The following collective terms may be used as ingredient names under sub. (2) (c):

(a) The collective term "animal protein products" may be used to describe one or more of the following ingredients:

1. Animal liver meal.
2. Animal liver and glandular meal.
3. Blood meal.
4. Dried meat solubles.
5. Extracted animal liver meal.
6. Fleshings hydrolysate.
7. Hydrolyzed hair.
8. Hydrolyzed leather meal.
9. Hydrolyzed poultry feathers.
10. Meat. The term "meat" shall be qualified to identify the animal species from which the meat is derived unless the meat is derived from cattle, swine, sheep or goats.
11. Meat by-products. The term "meat by-products" shall be qualified to identify the animal species from which the meat by-products are derived unless the meat by-products are derived from cattle, swine, sheep or goats.
12. Meat meal.
13. Meat and bone meal.
14. Meat meal tankage.
15. Poultry by-products.
16. Poultry by-product meal.
17. Poultry hatchery by-product.
18. Poultry parts.
20. Whole eviscerated chicken.
21. Crab meal.
22. Condensed fish solubles.
23. Dried fish solubles.
24. Fish meal.
25. Fish liver and glandular meal.
26. Fish protein concentrate.
27. Fish residue meal.
28. Shrimp meal.
29. Casein.
30. Cheese rind.
31. Condensed buttermilk.
32. Condensed cultured skimmed milk.
33. Condensed cultured whey.
34. Condensed hydrolyzed whey.
35. Condensed skimmed milk.
36. Condensed whey.
37. Condensed whey product.
38. Condensed whey solubles.
39. Dried buttermilk.
40. Dried cultured skimmed milk.
41. Dried hydrolyzed casein.
42. Dried hydrolyzed whey.
43. Dried milk albumin.
44. Dried milk protein.
45. Dried skimmed milk.
46. Dried whey.
47. Dried whey product.
48. Dried whey solubles.
49. Dried whole milk.
50. Animal blood dry.
51. Animal by-product meal.
52. Fish by-product.
53. Fish solubles condensed.
54. Fish solubles dry.
55. Meat and bone meal tankage.

(b) The collective term "forage products" may be used to describe one or more of the following ingredients:

1. Dehydrated alfalfa meal.
2. Dehydrated alfalfa meal solvent extracted.
3. Alfalfa leaf meal.
4. Alfalfa stem meal.
5. Sun cured alfalfa meal or ground alfalfa hay.
6. Dehydrated corn plant.
7. Corn plant pulp.
8. Flax plant product.
9. Ground grass.
10. Lespedeza meal.
11. Lespedeza stem meal.
12. Ground peanut stems.
13. Ground peanut vines.
14. Dehydrated silage pellets.
15. Ground soybean hay.
16. Dehydrated silage.
17. Coastal bermuda grass hay.
18. Ground soybean hay.

(c) The collective term "grain products" may be used to describe one or more of the following ingredients:

1. Barley.
2. Corn feed meal.
3. Cracked corn.
4. Flaked corn.
5. Ground corn.
6. Heat processed corn.
7. Screened cracked corn.
8. Oats.
9. Mixed feed oats.
10. Rice.
11. Ground brown rice.
12. Ground rough rice.
13. Rye.
14. Ground grain sorghum.
15. Rolled grain sorghum.
16. Wheat.
17. Corn.

(d) The collective term "plant protein products" may be used to describe one or more of the following ingredients:

1. Algae meal.
2. Coconut meal.
3. Cottonseed cake.
4. Cottonseed flake.
5. Cottonseed meal.
6. Low gossypol cottonseed meal.
7. Whole-pressed cottonseed.
8. Guar meal.
9. Linseed meal.
10. Peanut meal.
11. Safflower meal.
12. Soybean meal.
13. Sunflower meal.
14. Active dry yeast.
15. Dried yeast.
16. Brewers dried yeast.
17. Grain distillers dried yeast.
18. Molasses distillers dried yeast.
19. Torula dried yeast.
20. Yeast culture.

(e) The collective term "processed grain by-products" may be used to describe one or more of the following ingredients:

1. Pearl barley by-product.
2. Buckwheat middlings.
3. Corn bran.
4. Corn flour.
5. Corn germ meal.
6. Corn gluten feed.
7. Corn gluten meal.
8. Corn grits.
9. Brewers dried grains.
10. Distillers dried grains.
11. Distillers dried grains with solubles.
12. Condensed distillers solubles.
13. Molasses distillers condensed solubles.
14. Molasses distillers dried solubles.
15. Hominy feed.
16. Malt cleanings.
17. Malt sprouts.
18. Oat groats.
19. Peanut skins.
20. Rice bran.
21. Rice polishings.
22. Rye middlings.
23. Gelatinized sorghum grain flour.
24. Grain sorghum germ meal.
25. Grain sorghum gluten feed.
26. Grain sorghum gluten meal.
27. Grain sorghum grits.
28. Soy grits or soy flour.
29. Wheat bran.
30. Wheat feed flour.
31. Wheat germ meal.
32. Defatted wheat germ meal.
33. Wheat mill run.
34. Wheat middlings.
35. Wheat red dog.
36. Wheat shorts.

(f) The collective term "roughage products" may be used to describe one or more of the following:

1. Ground almond hulls.
2. Dried apple pectin pulp.
3. Dried apple pomace.
4. Barley hulls.
5. Barley mill by-product.
6. Dried beet pulp.
7. Buckwheat hulls.
8. Dried citrus meal.
9. Dried citrus pulp.
10. Citrus seed meal.
11. Corn cob fractions.
12. Ground corn cob.
13. Corn plant pulp.
14. Cottonseed hulls.
15. Husks.
16. Malt hulls.
17. Oat hulls.
18. Oat mill by-products.
19. Peanut hulls.
20. Rice hulls.
21. Rice mill by-product.

22. Soybean hulls.
23. Soybean mill feed.
24. Soybean mill run.
25. Flax straw by-product.
26. Ground straw.
27. Sunflower hulls.
28. Dried tomato pomace.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.18 Manufacturer or distributor; name and address. (1) **REQUIREMENT.** A commercial feed shall be labeled with the name and principal mailing address of the manufacturer or distributor who is responsible for the content and labeling of that feed. The principal mailing address shall include a street address, city, state and zip code. The street address may be omitted if the correct street address appears in the current city directory or telephone directory for the city listed on the label.

(2) **FEED PRODUCED ON BEHALF OF ANOTHER.** If a person produces commercial feed for another person who is licensed under s. ATCP 42.02, and who is identified on the feed label as the responsible manufacturer or distributor of that commercial feed, the person producing that feed for that responsible person need not be identified on the feed label.

(3) **RESPONSIBILITY.** The manufacturer or distributor whose name appears on the label of a commercial feed is responsible for the content and labeling of that feed, including compliance with this chapter.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.20 Declaration of net quantity. (1) **REQUIREMENT.** No person may sell or distribute any package, container or bulk lot of commercial feed in this state unless that package, container or bulk lot bears a label which accurately declares the net quantity of commercial feed contained in that package, container or bulk lot.

(2) **NET QUANTITY; HOW EXPRESSED.** (a) Net quantity shall be declared in terms of weight, measure or count, based on applicable requirements under s. 98.06, Stats.

Note: Under s. 98.06, Stats., liquid quantities must normally be declared in terms of liquid measure, and other quantities must normally be declared in terms of weight.

(b) If a declaration of net quantity is expressed in terms of weight or measure, the weight or measure shall be expressed in appropriate inch-pound units and in appropriate metric units.

(c) If net quantity expressed in terms of weight is not fully informative, net quantity shall also be expressed in terms of measure or count. If net quantity expressed in terms of measure is not fully informative, net quantity shall also be expressed in terms of weight or count. If net quantity expressed in terms of count is not fully informative, net quantity shall also be expressed in terms of weight or measure.

(d) Whenever a declaration of net quantity includes a declaration of count, the declaration shall also specify the size or weight of the individual counted units unless the declaration of count is fully informative without a declaration of unit size or weight.

Note: Compare s. ATCP 90.04.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.22 Use directions and precautionary statements. (1) **REQUIREMENT.** (a) Except as provided under par. (b) or (c), a commercial feed shall be prominently labeled with use directions and precautionary statements.

(b) No use directions are required under par. (a) for a non-medicated feed ingredient or a combination of non-medicated feed ingredients sold as a specialized nutritional source for use in manufacturing other feeds.

(c) Paragraph (a) does not apply to grain or a mixture of grain, with or without molasses, provided that both of the following apply:

1. The grain or grain mixture contains no drug or other additive.
2. The seller makes no specific feed claim for the grain or grain mixture.

(2) **INFORMATION INCLUDED.** The use directions and precautionary statements required under sub. (1) shall include all of the following:

(a) Adequate instructions to enable the safe and effective use of the commercial feed.

(b) Any use directions and precautionary statements required under 21 USC 343 and 21 CFR 514 and 558.

(c) Any use directions and precautionary statements required under s. ATCP 42.54 (3).

(3) **LOCATION ON FEED PACKAGE.** Use directions and precautionary statements for a packaged commercial feed shall appear at one of the following locations:

(a) On the principal display panel of the feed package.

(b) On another portion of the feed package, provided that a statement on the principal display panel clearly directs the user's attention to those use directions and precautionary statements.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

Subchapter IV — Custom-Mixed Feed

ATCP 42.24 Labeling custom-mixed feed. (1) **LABELING REQUIRED.** The manufacturer of a custom-mixed feed shall provide the purchaser of that feed with all of the following information, in writing, when the manufacturer delivers the custom-mixed feed to the purchaser:

(a) The name and address of the manufacturer.

(b) The name and address of the purchaser.

(c) The date on which the manufacturer sold or delivered the custom-mixed feed to the purchaser.

(d) The name of the custom-mixed feed.

(e) The net quantity of the custom-mixed feed.

(f) The name and net quantity of every commercial feed and every other ingredient used to manufacture the custom-mixed feed.

(g) The use directions and precautionary statements, if any, that are required under s. ATCP 42.22. If any commercial feed used in manufacturing a custom-mixed feed is labeled with use directions or precautionary statements, the manufacturer of the custom-mixed feed shall provide those use directions and precautionary statements to the purchaser of the custom-mixed feed.

(h) All of the information specified under s. ATCP 42.08 if the custom-mixed feed contains any drug.

(2) **RECORDS REQUIRED.** The manufacturer of a custom-mixed feed shall keep a copy of the information which the manufacturer provides to the purchaser of that custom-mixed feed under sub.

(1). The manufacturer shall keep the copy for at least one year, and shall make it available to the department for inspection and copying upon request.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.26 Guarantees and disclaimers. The manufacturer of a custom-mixed feed is not responsible for the nutritional adequacy of that feed, provided that the manufacturer makes no claim of nutritional adequacy. The manufacturer of a custom-mixed feed may place a disclaimer on the feed label stating that the manufacturer does not claim or warrant the nutritional adequacy of the feed, or the suitability of the feed for its intended purpose.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

Subchapter V — Dog and Cat Food

ATCP 42.28 Labeling required. (1) **GENERAL.** Except as provided under sub. (2), a dog or cat food shall be clearly and

conspicuously labeled with all of the following information so that the information is readily visible and legible to the purchaser:

(a) The words "Dog Food" or "Cat Food", or other words which clearly identify the product as dog or cat food. These words shall appear on the principal display panel of the dog or cat food package.

(b) The product name and the brand name if any.

(c) A guaranteed analysis as required under s. ATCP 42.30.

(d) An ingredient statement as required under s. ATCP 42.32.

(e) The information required under s. ATCP 42.34 if the dog or cat food contains any drug.

(f) A statement of nutritional adequacy, if required under s. ATCP 42.36.

(g) The name and principal mailing address of the manufacturer or distributor responsible for distributing the dog or cat food, as required for other commercial feed under s. ATCP 42.18 (1).

(h) A declaration of net quantity, as required for other commercial feed under s. ATCP 42.20. The declaration of net quantity shall appear on the principal display panel of the dog or cat food package.

(i) Feeding instructions, if required under s. ATCP 42.38.

(2) EXEMPTION. Subsection (1) does not apply to any of the following:

(a) A custom-mixed dog or cat food labeled according to subch. IV.

(b) Pet chews, bones, toys or exercisers made of rawhide, wood or man-made material, whether flavored or unflavored, unless the manufacturer or distributor claims that the product is intended for use as a dog or cat food or that it provides anything of nutritional value to a dog or cat.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.30 Guaranteed analysis. (1) REQUIREMENT. A dog or cat food shall be labeled with a guaranteed analysis. The guaranteed analysis shall include all of the following information in the following order:

(a) A minimum guarantee for crude protein.

(b) A minimum guarantee for crude fat.

(c) A maximum guarantee for crude fiber.

(d) A maximum guarantee for moisture. The maximum guaranteed moisture may not exceed 78%, or the natural moisture content of the dog or cat food ingredients, whichever is greater. A dog or cat food which primarily consists of stew, gravy, sauce, broth, juice or a milk replacer, and which is labeled as such, may contain moisture in excess of 78%.

(e) Mineral guarantees if the dog or cat food is sold wholly or in part for its mineral contents. Mineral guarantees shall comply with sub. (3).

(f) Vitamin guarantees if the dog or cat food label identifies one or more specific vitamins, or makes a specific vitamin-related performance claim. The guaranteed analysis shall include a guarantee for each vitamin which is identified on the label, or which is relevant to the performance claim. Vitamin guarantees shall be expressed in appropriate units, as provided for other commercial feeds under s. ATCP 42.12 (4).

(g) Other substances claimed on the label of the dog or cat food.

(2) FORM OF GUARANTEES. Every guarantee under sub. (1) shall clearly identify the substance guaranteed. Except as provided under s. ATCP 42.12 (3) or (4), a guarantee shall be expressed as a percentage by weight of the dog or cat food.

(3) MINERAL GUARANTEES. (a) Mineral guarantees, if required under sub. (1) (e), shall include all of the following:

1. Minimum and maximum guarantees for calcium.

2. A minimum guarantee for phosphorus.

3. A minimum and maximum guarantee for salt.

4. Minimum guarantees for other minerals claimed on the dog or cat food label.

(b) Mineral guarantees shall be expressed in appropriate units, as provided for other commercial feed under s. ATCP 42.12(3).

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.32 Ingredient statement. (1) REQUIREMENT. Every dog or cat food shall be labeled with an ingredient statement, clearly identified as such, which lists the name of each ingredient from which that dog or cat food is manufactured. All ingredients shall be printed in the same type and type size.

Note: Ingredients should be listed in descending order by weight. Failure to do so may be deceptive or misleading.

(2) INGREDIENT NAMES. Every ingredient name used in an ingredient statement under sub. (1) shall be one of the following:

(a) The common or usual name of that ingredient.

(b) The official name of that ingredient as stated in the 1996 official publication of the association of American feed control officials.

Note: Copies of the official publication of the association of American feed control officials are on file with the department, the secretary of state and the revisor of statutes. You may also obtain a copy from the AAFCO treasurer whose address is available from the department.

(3) PROHIBITED TERMS. No ingredient statement under sub. (1) may include any of the following:

(a) A reference to the grade or quality of an ingredient.

(b) The term "dehydrated," unless used to describe a feed ingredient that has been artificially dried.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.34 Medicated dog or cat food. If a dog or cat food contains one or more drugs, the dog or cat food label shall include all of the following:

(1) The word "medicated," printed directly after and below the product name in a type size no smaller than one-half the type size of the product name.

(2) A statement of purpose which clearly explains the purpose for each drug contained in the dog or cat food.

(3) A statement of active drug ingredients, including the established name and amount of each active ingredient.

(4) Directions for use and precautionary statements needed for safe feeding of the dog or cat food.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.36 Statement of nutritional adequacy. One of the following statements shall be clearly and conspicuously printed on the principal display panel or information panel of every dog or cat food package unless the dog or cat food is prominently labeled as a "treat" or "snack":

(1) A statement that "[Name of product] is formulated to meet the nutritional levels established by the AAFCO [Dog or Cat] Food Nutrient Profiles for [specify the life stages, such as gestation, lactation, growth or maintenance, for which the dog or cat food is intended, or specify "all life stages"]". This statement shall be accompanied by the prominent statement, "Use only as directed by your veterinarian," if the dog or cat food is intended for use by or under the direction of a veterinarian.

(2) A statement that "Animal feeding tests using AAFCO procedures substantiate that [name of product] provides complete and balanced nutrition for [specify the life stages, such as gestation, lactation, growth or maintenance, for which the dog or cat food is intended, or specify "all life stages"]". This statement shall be accompanied by the prominent statement, "Use only as directed by your veterinarian," if the dog or cat food is intended for use by or under the direction of a veterinarian.

(3) A statement that the dog or cat food is nutritionally adequate for purposes other than those specified under sub. (1) or (2) if the statement is scientifically substantiated. This statement shall be accompanied by the prominent statement, "Use only as

directed by your veterinarian," if the dog or cat food is intended for use by or under the direction of a veterinarian.

(4) A statement that "This product is intended for intermittent or supplemental feeding only." This statement shall be accompanied by the prominent statement, "Use only as directed by your veterinarian," if the dog or cat food is intended for use by or under the direction of a veterinarian.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.38 Feeding instructions. (1) **REQUIREMENT.** Except as provided under sub. (2), a dog or cat food shall be prominently labeled with feeding instructions. The feeding instructions shall clearly state the recommended amount of dog or cat food to be fed, and the purpose for which it is fed. The feeding instructions shall include any precautionary statements which are needed for safe feeding of the dog or cat food.

(2) **EXEMPTIONS.** Subsection (1) does not apply to a dog or cat food that is clearly and conspicuously labeled as one of the following:

- (a) For use only under a veterinarian's prescription.
- (b) A "treat" or "snack."

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.40 Statement of calorie content. The label of a dog or cat food may include a statement of calorie content only if all of the following apply:

(1) The statement is separate and distinct from the guaranteed analysis under s. ATCP 42.30.

(2) The statement appears under the heading "Calorie Content."

(3) The statement reflects metabolizable energy, expressed as "kilocalories per kilogram" of dog or cat food. The amount of metabolizable energy may also be expressed in kilocalories per unit of weight or measure used in the declaration of net quantity under s. ATCP 42.28 (1) (h) or the feeding instructions under s. ATCP 42.38.

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

(a) By calculation using the modified Atwater formula, $ME(kcal/kg) = 10[(3.5 \times CP) + (8.5 \times CF) + (3.5 \times NFE)]$, where CP = % crude protein as fed, CF = % crude fat as fed, NFE = % nitrogen-free extract (carbohydrate) as fed, the percentages of CP and CF are the arithmetic averages obtained from proximate analyses of at least four production batches of the dog or cat food, and NFE is 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).

(b) By a testing procedure published in the 1996 official publication of the association of American feed control officials.

Note: Copies of the official publication of the association of American feed control officials are on file with the department, the secretary of state and the revisor of statutes. You may also obtain a copy from the AAFCO treasurer whose address is available from the department.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.42 Product or brand names; use of ingredient names. No product or brand name may identify any ingredients of a dog or cat food to the exclusion of any other ingredients unless at least one the following applies:

(1) The identified ingredients are derived from animals and collectively comprise both of the following:

(a) At least 95% by weight of the dog or cat food, where water sufficient for processing is excluded from the weight of the dog or cat food.

(b) At least 70% by weight of the dog or cat food, where the weight of the dog or cat food includes all water in the dog or cat food.

(2) All of the following conditions are met:

(a) The identified ingredients collectively comprise at least 25% by weight of the dog or cat food, where water sufficient for processing is excluded from the weight of the dog or cat food.

(b) The identified ingredients collectively comprise at least 10% by weight of the dog or cat food, where the weight of the dog or cat food includes all water in the dog or cat food.

(c) Each of the identified ingredients comprises at least 3% by weight of the dog or cat food, where water sufficient for processing is excluded from the total weight of the dog or cat food.

(d) The identified ingredients are identified in their order of predominance.

(e) The product or brand name includes a term, such as "dinner," which suggests multiple ingredients.

(3) The ingredient is added to the dog or cat food, at significant additional cost, in order to impart a distinctive flavor or special nutritional value to the dog or cat food.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.44 Prohibited labeling. No labeling for dog or cat food may do any of the following, either directly or by implication:

(1) Make any statement or representation, including any pictorial or graphic representation, which is false, deceptive or misleading.

(2) Misrepresent that a dog or cat food is suitable for a specified use.

(3) Fail to disclose, in connection with any health or nutritional claim for dog or cat food, pertinent qualifications or limitations on that claim.

(4) Make any health or nutritional claim for dog or cat food unless the manufacturer has reasonable scientific evidence to support that claim at the time the claim is made.

(5) Claim that the dog or cat food provides a complete, perfect, balanced or nutritionally adequate ration for dogs or cats unless one of the following applies:

(a) The claim is true for all life stages of dogs or cats.

(b) The claim clearly identifies the life stage of dogs or cats for which it is true.

(6) Claim that the dog or cat food provides a complete, perfect, balanced or nutritionally adequate ration for dogs or cats unless one of the following applies:

(a) The dog or cat food, when fed in recommended amounts, meets all nutrient requirements established in applicable pet nutrient profiles specified in the 1996 official publication of the association of American feed control officials.

(b) The dog or cat food is adequate as a sole source of nourishment for dogs or cats when fed according to label directions and according to feeding protocols for dogs and cats specified in the official publication of the association of American feed control officials.

(c) The manufacturer possesses valid scientific evidence, equivalent to that specified under par. (a) or (b), which substantiates the label claim.

Note: Copies of the official publication of the association of American feed control officials are on file with the department, the secretary of state and the revisor of statutes. You may also obtain a copy from the AAFCO treasurer whose address is available from the department.

(7) Misrepresent that an identified ingredient is present to the exclusion of any other ingredient.

(8) Misrepresent the amount of any ingredient in a dog or cat food.

(9) Use the term "with [ingredient]," or any similar term which calls attention to a specific ingredient unless that ingredient constitutes at least 3 percent by weight of the dog or cat food, exclusive of water sufficient for processing.

Note: See also s. ATCP 42.42.

(11) Misrepresent that a dog or cat food contains only one ingredient. A claim does not violate this subsection if, in addition

to the single claimed ingredient, the dog or cat food contains only water sufficient for processing, required denaturing agents, or trace amounts of preservatives and condiments.

(12) Claim that the dog or cat food is flavored unless the flavor is detectable by a recognized test method or is proven to be readily distinguishable by a dog or cat. A flavor claim shall identify the source of the flavor, unless the source is an ingredient listed under s. ATCP 42.32 which has the same name as the flavor.

(13) Use the term "meat" or "meat by-products" to designate meat or meat by-products from animals other than cattle, swine, sheep or goats, unless the term is qualified to identify those animals.

(14) Claim that a dog or cat food is "new" or "improved" if the formula for that dog or cat food has not changed significantly for more than 6 months.

(15) Make any specific comparison claim, including any claim that a dog or cat food is preferred by dogs or cats, unless the claim is substantiated by reasonable evidence acquired within one year prior to the date on which the claim is made.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

Subchapter VI — General Provisions

ATCP 42.46 Good manufacturing practices. (1) GENERAL. Medicated commercial feed and dog and cat food shall be manufactured, processed, packaged, stored and distributed in a manner which prevents adulteration and misbranding.

(2) BUILDINGS. Buildings and facilities used in manufacturing medicated commercial feed or dog or cat food shall be all of the following:

- (a) Adequate for the purpose used.
- (b) Capable of being kept clean and in good repair.
- (c) Constructed to allow convenient access for routine cleaning and maintenance.
- (d) Kept clean and in good repair.
- (e) Kept free of unhealthful or unsanitary conditions.

(3) EQUIPMENT. Equipment used to manufacture medicated commercial feed or dog or cat food shall be all of the following:

- (a) Adequate for the purpose used. Scales and measuring devices shall be accurate.
- (b) Designed, constructed and installed to facilitate routine cleaning, inspection and maintenance.
- (c) Capable of being kept in a clean and in good repair.
- (d) Kept clean and in good repair.

(4) CROSS-UTILIZATION. Areas and equipment used to manufacture, handle or store medicated commercial feeds, dog food or cat food may not be used to manufacture, handle or store fertilizers or pesticides, unless the fertilizers or pesticides are approved for use in the manufacture of the medicated commercial feeds, dog food or cat food.

(5) MEDICATED FEEDS; MANUFACTURING. (a) Type A medicated articles shall be manufactured according to 21 CFR 226.

(b) Type B and type C medicated feeds shall be manufactured according to 21 CFR 225.

(6) MEDICATED FEED INGREDIENTS. (a) The operator of a medicated feed manufacturing facility shall establish and maintain procedures for identifying, storing and controlling inventories of Type A medicated articles and Type B medicated feeds used in manufacturing medicated feeds. The procedures shall preserve the identity, strength, quality and purity of the drug sources.

(b) Packaged Type A medicated articles and Type B medicated feeds shall be stored in designated areas in their original closed containers. Bulk Type A medicated articles and bulk Type B medicated feeds shall be identified and stored in a manner which preserves their identity, strength, quality and purity.

(c) Type A medicated articles and Type B medicated feeds shall be used according to label directions.

(7) INGREDIENT LABELING. All packaged and bulk ingredients received or held for use in the manufacture of medicated commercial feed or dog or cat food shall be accurately labeled to facilitate proper use.

(8) RECORDS. A manufacturer of medicated commercial feed or dog or cat food shall keep records of all manufactured products, including product formulas, manufacturing dates, batch numbers and shipment dates. The records shall be adequate to facilitate the recall of specific batches of medicated commercial feed or dog or cat food, should that become necessary. Records for each batch of manufactured product shall be retained for at least one year after the last product from that batch has been distributed.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.48 Nutritional content. (1) GENERAL. Except as provided under sub. (3), the nutritional content of a commercial feed shall be suitable for the intended use of that feed when the feed is used according to label directions.

(2) NUTRITIONAL STANDARDS. Except as provided under sub. (3), no person may manufacture or distribute a commercial feed intended for swine, poultry, fish, veal calves or herd replacement calves unless one of the following applies:

(a) The commercial feed complies with applicable nutritional standards published by the committee on animal nutrition, national research council, national academy of sciences.

Note: Copies of the nutritional standards under par. (a) are on file with the department, the secretary of state and the revisor of statutes.

(b) The manufacturer of the commercial feed possesses valid scientific evidence showing that the commercial feed complies with sub. (1).

Note: If the department has reason to believe that a commercial feed intended for swine, poultry, fish, veal calves or herd replacement calves is not suitable for its intended use, the department may request documentation showing that the feed complies with par. (a) or (b).

(3) EXEMPTION. This section does not apply to a custom-mixed feed.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.50 Drugs and other additives. (1) DRUGS. No person may manufacture or distribute any commercial feed which is a drug, or which contains any drug, unless all of the following apply:

(a) The drug is safe and effective for its intended use when used according to label directions.

(b) The drug and its use are approved or sanctioned by the federal food and drug administration if federal law requires that approval or sanction.

(2) USE OF DRUGS IN COMMERCIAL FEED. No person may do either of the following:

(a) Manufacture or distribute any commercial feed to which a drug has been added in violation of the drug label, or in violation of the terms under which the drug is approved by the federal food and drug administration.

(b) Manufacture or distribute any commercial feed to which a drug has been added unless that commercial feed is labeled as a medicated commercial feed according to this chapter.

(3) OTHER ADDITIVES. No person may manufacture or distribute any commercial feed containing a special purpose additive or non-nutritive additive if any of the following apply:

(a) The additive is not safe, or is not effective, for its intended use when used according to label directions.

(b) The additive is used in the commercial feed for a purpose other than that for which it was intended, or in violation of its label.

(c) The additive is used to impart immunity, but the United States department of agriculture has not approved it for that purpose under 21 USC 151 to 158.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.52 Adulteration and misbranding. (1) ADULTERATION AND MISBRANDING PROHIBITED. No person may sell or distribute in this state a feed which is adulterated or misbranded.

(2) ADULTERATION; WHAT CONSTITUTES. A feed is adulterated if any of the following apply:

(a) The feed bears or contains any poisonous or deleterious substance which may make it injurious to health. If the substance is not an added substance, the feed is not considered adulterated under this paragraph if the quantity of the substance does not ordinarily make the feed injurious to the health of the animal for which it is intended.

(b) The feed contains any added poisonous, deleterious, or non-nutritive substance which is unsafe within the meaning of 21 CFR 406. This paragraph does not apply to either of the following:

1. A pesticide used according to label directions on a raw agricultural commodity contained in the feed.
2. A food additive that complies with 40 CFR 180.

(c) A raw agricultural commodity in the feed contains the residue of a pesticide that is unsafe within the meaning of 21 CFR 408(a), unless all of the following apply:

1. The pesticide chemical was applied to the raw agricultural commodity according to an exemption or tolerance under 21 CFR 408.
2. The raw agricultural commodity has been processed by canning, cooking, freezing, dehydrating, milling or other processing procedures.
3. The pesticide residue has been removed from the raw agricultural commodity to the greatest extent possible with good manufacturing practices.
4. The pesticide residue concentration in the feed does not exceed the tolerance prescribed for that pesticide in the raw agricultural commodity.

(d) The feed, if fed to an animal, will likely cause the edible product of that animal to contain a pesticide residue which is unsafe within the meaning of 21 CFR 408(a).

(e) The feed contains any food additive which is unsafe within the meaning of 21 CFR 409.

(f) The feed contains any color additive which is unsafe within the meaning of 21 CFR 706.

(g) The feed contains any new animal drug which is unsafe within the meaning of 21 CFR 512.

(h) A drug, special purpose additive or non-nutritive additive is added to the feed in violation of s. ATCP 42.50.

(i) A valuable constituent of the feed is wholly or partly omitted or removed from the feed, or is wholly or partly replaced by a less valuable constituent.

(j) The composition or quality of the feed falls below or differs from that represented on the feed labeling.

(k) The feed is a medicated commercial feed or a dog or cat food manufactured in violation of good manufacturing requirements under s. ATCP 42.46.

(L) The feed contains germitive noxious weed seeds in an amount greater than either of the following, unless the presence and guaranteed maximum amount of those germitive noxious weed seeds is clearly stated on the feed label:

1. An amount which is unavoidably present, notwithstanding the use of best commercial feed manufacturing practices.
2. One one-hundredth of one percent by weight of feed.

(m) The feed contains any germitive weed seeds, other than wild buckwheat seeds, in an amount greater than either of the fol-

lowing, unless the presence and guaranteed maximum amount of those germitive weed seeds is clearly stated on the feed label:

1. An amount which is unavoidably present, notwithstanding the use of best commercial feed manufacturing practices.

2. One fourth of one percent by weight of feed.

(n) The feed is a mineral supplement or additive, intended for any of the following classes of animals, which contains fluorine in excess of any of the following amounts:

1. For breeding or dairy cattle, 0.20%.
2. For slaughter cattle, 0.30%.
3. For sheep, 0.30%.
4. For lambs, 0.35%.
5. For poultry, 0.45%.

(o) The feed, when used in normal feeding according to label directions, raises the fluorine content of the total ration, excluding of roughage, above the following amounts for the following classes of animals:

1. For breeding or dairy cattle, 0.004%.
2. For slaughter cattle, 0.009%.
3. For sheep, 0.006%.
4. For lambs, 0.01%.
5. For swine, 0.015%.
6. For poultry, 0.03%.

(p) The feed, when fed directly to cattle, sheep or goats consuming roughage with or without limited amounts of grain, results in a daily fluorine intake of more than 50 milligrams of fluorine per 100 pounds of body weight.

(q) The feed contains soybean or vegetable meal, flakes, or pellets extracted with trichlorethylene or other chlorinated solvents.

(r) Sulfur dioxide, sulfurous acid or salts of sulfurous acid are used in manufacturing a feed which is represented as a significant source of vitamin B₁ (Thiamine).

(s) The feed contains an organic ingredient, such as humus, peat, sphagnum moss or sawdust, that has little or no feeding value.

(t) The feed is manufactured, packaged or held under unsanitary conditions which may contaminate it with filth or make it injurious to health.

(3) MISBRANDING; WHAT CONSTITUTES. A feed is misbranded if any of the following applies:

(a) The feed labeling is false, deceptive or misleading in any particular.

(b) The feed is sold or distributed under the name of another feed.

(c) The feed labeling violates any provision of this chapter.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.54 Non-protein nitrogen. (1) USE OF NON-PROTEIN NITROGEN INGREDIENTS. No non-protein nitrogen ingredient, such as urea, di-ammonium phosphate, ammonium polyphosphate solution or ammoniated rice hulls, may be used as a source of equivalent crude protein in a commercial feed intended for non-ruminant animals. This subsection does not prohibit the use of non-protein nitrogen ingredients for other nutrient purposes in a commercial feed intended for non-ruminant animals, provided that all of the following apply:

(a) The non-protein nitrogen ingredients are identified in the 1996 official publication of the association of American feed control officials.

Note: Copies of the official publication of the association of American feed control officials are on file with the department, the secretary of state and the revisor of statutes. You may also obtain a copy from the AAFCO treasurer whose address is available from the department.

(b) The equivalent crude protein incidentally provided by all of the non-protein nitrogen ingredients does not exceed 1.25% by weight of the commercial feed.

(c) The crude protein guarantee for the commercial feed is stated in the following form: "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])."

(2) **GUARANTEED ANALYSIS.** (a) If a commercial feed for ruminants contains more than 5% protein from natural sources, but also contains added non-protein nitrogen, its guaranteed analysis shall include the following guarantee: "Crude protein, minimum, ___% (This includes not more than ___% equivalent crude protein from non-protein nitrogen)."

(b) If a commercial feed for ruminants contains added non-protein nitrogen and not more than 5% protein from natural sources, its guaranteed analysis shall include the following guarantee: "Equivalent crude protein from non-protein nitrogen, minimum, ___%".

(c) If a non-protein nitrogen ingredient is sold as a source of equivalent crude protein for use in manufacturing commercial feed for ruminants, the guaranteed analysis for that feed ingredient shall include the following guarantee: "Nitrogen, minimum, ___%, percentage of equivalent crude protein from non-protein nitrogen, minimum, ___%".

(3) **USE DIRECTIONS AND PRECAUTIONARY STATEMENTS.** (a) If a commercial feed for ruminants contains more than 8.75% equivalent crude protein from non-protein nitrogen, or more than one-third of its total equivalent crude protein from non-protein nitrogen, it shall be prominently labeled with use directions and precautionary statements to ensure the safe and effective use of that commercial feed as a source of equivalent crude protein. The use directions and precautionary statements shall be introduced by the following prominent statement or its equivalent: "**CAUTION: USE AS DIRECTED.**"

(b) A commercial feed ingredient containing more than 1.25 percent equivalent crude protein from non-protein nitrogen

sources, if sold for use in manufacturing commercial feed for non-ruminant animals, shall be prominently labeled with use directions and precautionary statements to prevent violations of sub. (1). The use directions and precautionary statements shall be introduced by the following prominent statement or its equivalent: "**WARNING: THIS FEED MUST BE USED ACCORDING TO LABEL DIRECTIONS.**"

(c) Use directions and precautionary statements required under par. (a) or (b) may be incorporated in any use directions and precautionary statements required under s. ATCP 42.22.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.

ATCP 42.56 Enforcement. (1) **FORMAL ENFORCEMENT.** Violations of this chapter may subject the violator to any of the following enforcement actions:

(a) A holding order or stop sale order under s. 94.72 (13) (b), Stats.

(b) The denial, suspension or revocation of a commercial feed license under s. 93.06 (7), Stats., or the imposition of license conditions under s. 93.06 (8), Stats.

(c) Criminal sanctions or court orders under s. 94.72 (14), Stats. Before referring any alleged labeling violation for court prosecution under s. 94.72 (14), Stats., the department shall give the alleged violator notice and an opportunity for an informal hearing on the alleged violation, as required under s. 94.72(11), Stats. The department, in its notice to the alleged violator, may specify deadlines for requesting and holding an informal hearing. Section 94.72 (11), Stats., does not require the department to hold a contested case hearing under ch. 227, Stats., and ch. ATCP 1 before referring an alleged labeling violation for court prosecution.

(2) **INVESTIGATIONS.** The department may use its authority under ss. 93.08, 93.14 to 93.16, and 94.72 (9), (10), and (13) (c) and (d), Stats., to monitor compliance with and investigate possible violations of this chapter.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-97.