Stricken language would be deleted from and underlined language would be added to the Code of Arkansas Rules.

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Proposed Rulemaking

Title

Promulgated by:
State Plant Board

Title 2. Agriculture

Chapter II. State Plant Board, Department of Agriculture

Subchapter A. Generally

Part 25. Arkansas Feed Rules

Subpart 1. Generally

2 CAR § 25-101. Definitions and terms.

(a) As used in this part:

(1) "Act" means the Arkansas Feed Law of 1997, Arkansas Code §§ 2-37-101 to 114~~Acts 1997, No. 726~~;

~~(2) "Board" means the State Plant Board;~~

(~~3~~2) "AAFCO" means the Association of American Feed Control Officials, Inc., a nonprofit association of state and federal feed regulatory officials; and

~~(4) "FDA" means the United States Food and Drug Administration.~~

(3) "GRAS" means generally recognized as safe.

(b) The names and definitions for commercial feeds shall be the official definition of feed ingredients adopted by the AAFCO, except as the State Plant Board designates otherwise in specific cases.

(c) The terms used in reference to commercial feeds shall be the official feed terms adopted by the AAFCO, except as the board designates otherwise in specific cases.

(d)(1) The following commodities are hereby declared exempt from the definition

of commercial feed, under the provisions of Arkansas Code § 2-37-103 ~~Section 3~~(c) ~~of Acts 1997, No. 726:~~

(A) Raw meat;

(B) Hay;

(C) Straw;

(D) Stover;

(E) Silages;

(F) Cobs;

(G) Husks; ~~and~~

(H) Loose salt;

(~~H~~I) Hulls when unground and when not mixed or intermixed with other materials~~.~~; and

(J) Unmixed whole seeds, when such seeds are not adulterated.

(2) Provided that these commodities are not adulterated within the meaning of Arkansas Code § 2-37-107~~Section 7 of Acts 1997, No. 726~~.

(e)(1) Individual chemical compounds and substances are hereby declared exempt from the definition of commercial feed under the provisions of Arkansas Code § 2-37-103 ~~Section 3~~(c) ~~of the Acts 1997, No. 726~~.

(2) It has been determined that these products meet the following criteria:

(A) There is an adopted AAFCO definition for the product;

(B) The product is either ~~generally recognized as safe (GRAS)~~GRAS or is not covered by a specific United States Food and Drug Administration regulation;

(C) The product is either:

(i) A natural occurring product of relatively uniform chemical composition; or

(ii) Manufactured to meet the AAFCO definition of the product;

(D) The use of the product in the feed industry constitutes a minor portion of its total industrial use;

(E) Small quantities of additives, which are intended to impart special desirable characteristics, shall be permitted; and

(F) There is no need or problem of control of this product.

(f) Canned pet food and specialty pet food are hereby declared exempt from the definition of commercial feed under Arkansas Code §-2-37-103 ~~Section 3~~(c) ~~of Acts 1997, No. 726~~.

(g) The term "quantity statement" means the:

(1) Net weight (mass) expressed in pounds with the remainder expressed in ounces or decimal fractions of pounds. It may include additional measurements such as International Standard (SI) metric units;

(2) Net volume (liquid or dry) expressed in the largest whole unit of gallons, quarts, or pints with the remainder in pints. It may include additional measurements such as SI metric units; or

(3) Count. When the declaration by count does not give adequate information as to the quantity of feed in the container, it must be combined with such statement of weight, liquid measure, or size of individual units as will provide such information.

(h) Feed supplied to contract feeders and feed ingredients supplied to integrated operators as well as exchanges of feed or feed ingredients between integrated operators who have obtained an exemption license as provided in Arkansas Code § 2-37-104~~Section 4 of Acts 1997, No. 726~~ are exempt from the definition of commercial feed under Arkansas Code § 2-37-103 ~~Section 3~~(c) ~~of Acts 1997, No. 726~~.

(i) A grower's production of unmanipulated poultry litter is exempt from the provisions of the ~~Arkansas Feed Law of 1997, Acts 1997, No. 726~~Act.

(j) Principal Display Panel means the out-facing side of the feed tag, or if no tag, the part of the label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

2 CAR § 25-102. Label format.

(a) Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this rule on the ~~principal display panel~~label of the product and in the following format:

(1) Product name and brand name, if any, as stipulated in 2 CAR § 25-103(b);

(2) If a drug is used, label as stipulated in 2 CAR § 25-103(c);

(3) Purpose statement as stipulated in 2 CAR § 25-103(d);

(4) Guaranteed analysis as stipulated in 2 CAR § 25-103(e);

(5) Feed ingredients as stipulated in 2 CAR § 25-103(f);

(6) Directions for use and precautionary statements as stipulated in 2 CAR § 25-103(g);

(7) Name and principal mailing address of the manufacturer or person responsible for distributing the feed as stipulated in 2 CAR § 25-103(h); and

(8) Quantity statement.

~~——~~(b) Label information is to be placed as follows:

(1) The information required in subdivisions (a)(1)–(~~5~~3) and ~~(7)~~ (8) of this section must appear in its entirety on ~~one (1) side of the label or on one (1) side of the container~~principle display panel.

(2)(A) The information as required by subdivision (a)(6) of this section shall be displayed in a prominent place on the label or container but not necessarily on the principal display panel~~same side as the above information~~.

(B) ~~When the~~The information as required by ~~subdivision~~ (a)(4), (5), (6), and (7) of this section shall be displayed in a prominent place on the feed tag or label, but not necessarily on the principal display panel. When a precautionary statement required by 2(a)(6) does not appear on the principal display panel it must be referenced on the principal display panel with a statement such as "See back of label for precautions". ~~is placed on a different side of the label or container, it must be referenced on the front side with a statement such as "See back of label for directions for use"~~.

(3) None of the information required by this section shall be subordinated or obscured by other statements or designs.

(c) Customer-formula feed shall be accompanied ~~with~~ by the information prescribed in this section using labels, invoice, delivery ticket, or other shipping document 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 quantity of each registered commercial feed and each other ingredient used in the mixture;

(6) The direction for use and precautionary statements as required by 2 CAR §§ 25-107 and 25-108; and

(7) If a drug containing product is used:

(A) The purpose of the medication (claim statement); and

(B) The established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with 2 CAR § 25-104(d).

2 CAR § 25-103. Label information.

(a) Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this rule.

(b) **Product name and brand name if any.**

(1)(A) The brand or product name must be appropriate for the intended use of the feed and must not be misleading.

(B) If the name indicates the feed is made for a specific use, the character of the feed must conform therewith.

(C) A commercial feed for a particular animal class, must be suitable for that purpose.

(2) 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 such a name.

(3)(A) The name of a commercial feed ~~shall not be~~:

(i) ~~Derived~~ Shall not be derived from one (1) or more ingredients of a mixture to the exclusion of other ingredients; and

(ii) ~~One~~ Shall not be one representing any components of a mixture

unless all components are included in the name.

(B) 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 a part of the brand name or product name if the:

(i) Ingredients, or combination of ingredients, ~~is~~ are quantitatively guaranteed in the guaranteed analysis; and

(ii) Brand or product name is not otherwise false or misleading.

(4) The word "protein" shall not be permitted in the product name of a feed that contains added nonprotein nitrogen.

(5)(A) 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".

(B) Provided, that other percentage values may be permitted if they:

(i) Are followed by the proper description; and

(ii) Conform to good labeling practice.

(C) Digital numbers shall not be used in such a manner as to be misleading or confusing to the customer.

(6) Single-ingredient feeds shall have a product name in accordance with the designated definition of feed ingredients as recognized by the AAFCO unless the State Plant Board designates otherwise.

(7) The word "vitamin", or a contraction thereof, 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 2 CAR § 25-104(c).

(8)(A) The term "mineralized" shall not be used in the name of a feed except for "TRACE MINERALIZED SALT".

(B) When so used, the product must contain significant amounts of trace minerals, which are recognized as essential for animal nutrition.

(9) The term "meat" and "meat by-products" shall be qualified to designate

the animal from which the meat and meat by-products are derived unless the meat and meat by-products are made from:

(A) Cattle;

(B) Swine;

(C) Sheep; and

(D) Goats.

(10) If the commercial animal feed consists of raw milk, the words, "Raw (blank) Milk" shall appear conspicuously on the principal display panel. (Blank is to be completed by using the species of the animal from which the raw milk is collected.)

(c) If a drug is used:

(1) The word "medicated" shall appear directly following and below the product name in type size no smaller than one-half (1/2) the type size of the product name;

(2) Purpose statement as required in subsection (d) of this section;

(3) The purpose of medication (claim statement); and

(4) An active ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with 2 CAR § 25-104(d).

(d) **Purpose statement.**

(1) The statement of purpose shall contain the specific species and animal class or classes for which the feed is intended as defined in subsection (e) of this section.

(2) 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 subsection (e) of this section which may include, but is not limited to, weight range or ranges, sex, or ages of the animal or animals for which the feed is manufactured.

(3) The purpose statement may be excluded from the label if the product name includes a description of the species and animal class or classes for which the product is intended.

(4)(A) 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:

(i) The nutrients contained in the premix are guaranteed and sufficient for formulation into various animal species feeds; and

(ii) Premix specifications are provided by the end user of the premix.

(B) This section is applicable to commercial feeds regulated under (e)(~~11~~12)(B)(x) of this section.

(5)(A) The purpose statement of a single-purpose ingredient blend, such as a blend of 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.

(B) This section is applicable to commercial feeds regulated under (e)(~~11~~12)(B)(x) of this section.

(6) The purpose statement of a product shall include a statement of the enzyme functionality if enzymatic activity is represented in any manner.

(7) The statement of purpose for single ingredient feeds shall be stated as "Single Ingredient Feed" or "Feed Ingredient." The manufacturer of a single ingredient feed or feed ingredient shall have flexibility in describing in more specific and common language the intended use of the feed ingredient dependent on species and class.

(8) The purpose statement of a feed intended as a treat for a designated species (exclusive of pets and specialty pets) shall include the words "treat" or "snack" and the intended species conspicuously on the principal display panel.

(e) **Guarantees.**

(1)(A) Crude protein, equivalent crude protein from nonprotein, amino acids, crude fat, crude fiber, acid detergent fiber, calcium, phosphorus, salt, and sodium shall be the sequence of nutritional guarantees when such guarantee is stated.

(B) Other required and voluntary guarantees should follow in a general

format such that the units of measure used to express guarantees (percentage, parts per million, international units, etc.) are listed in a sequence that provides a consistent grouping of the units of measure. Individual nutrient guarantees are not required if listed as exempt in (e)(14).

(2) Required guarantees for swine formula feeds.

(A) **Animal classes.**

(i) Pre-starter- two to eleven pounds (2-11 lbs.).

(ii) Starter- eleven to forty-four pounds (11-44 lbs.).

(iii) Grower- forty-four to one hundred ten pounds (44-110 lbs.).

(iv) Finisher- one hundred ten pounds (110 lbs) to ~~two hundred forty-two pounds (110-242 lbs.) (market)~~market weight.

(v) Gilts, sows, and adult boars.

(vi) Lactating gilts and sows.

(B) Guaranteed analysis for swine complete feeds and supplements, all animal classes.

(i) Minimum percentage of crude protein.

(ii) Minimum percentage of lysine.

(iii) Minimum percentage of crude fat.

(iv) Maximum percentage of crude fiber.

(v) Minimum and maximum percentage of calcium.

(vi) Minimum percentage of phosphorus.

(vii) Minimum and maximum percentage of salt (if added).

(viii) Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

(ix) Minimum selenium in parts per million (ppm).

~~(x) Minimum zinc in parts per million (ppm).~~

(3) Required guarantees for formula poultry feeds (broilers, layers, and turkeys).

(A) **Animal classes.**

(i) **Layer.** Chickens that are grown to produce eggs for food, e.g., table eggs, including:

(a) Starting/growing – from day of hatch to approximately ten (10) weeks of age;

(b) Finisher – from approximately ten (10) weeks of age to time first egg is produced (approximately twenty (20) weeks of age);

(c) Laying – from time first egg is laid throughout the time of egg production; and

(d) Breeders – chickens that produce fertile eggs for hatch replacement layers to produce eggs for food, table eggs, from time first egg is laid throughout their productive cycle.

(ii) **Broilers.** Chickens that are grown for human food, including:

(a) Starting/growing – from day of hatch to approximately five (5) weeks of age;

(b) Finisher from approximately five (5) weeks of age to market, forty-two to fifty-two (42-52) days; and

(c) Breeders – hybrid strains of chickens whose offspring are grown for human food (broilers), any age, and either sex.

(iii) **Broilers, breeders.** Chickens whose offspring are grown for human food (broilers), including:

(a) Starting/growing – from day of hatch until approximately ten (10) weeks of age;

(b) Finishing – from approximately ten (10) weeks of age to time first egg is produced, approximately twenty (20) weeks of age; and

(c) Laying – fertile, egg-producing chickens (broilers/roasters) from day of first egg throughout the time fertile eggs are produced.

(iv) **Turkeys.**

(a) Starting/growing – turkeys that are grown for human food from day of hatch to approximately thirteen (13) weeks of age (females) and sixteen

(16) weeks of age (males).

(b)(1) Finisher – turkeys that are grown for human food.

(2) Females from approximately thirteen (13) weeks of age to approximately seventeen (17) weeks of age, males from sixteen (16) weeks of age to twenty (20) weeks of age, or desired market weight.

(c) Laying – female turkeys that are producing eggs, from time first egg is produced throughout the time they are producing eggs.

(d) Breeder – turkeys that are grown to produce fertile eggs, from day of hatch to time first egg is produced (approximately thirty (30) weeks of age), both sexes.

(B) Guaranteed analysis for poultry complete feeds and supplements, all animal classes.

(i) Minimum percentage of crude protein.

(ii) Minimum percentage of lysine.

(iii) Minimum percentage of methionine.

(iv) Minimum percentage of crude fat.

(v) Maximum percentage of crude fiber.

(vi) Minimum and maximum percentage of calcium.

(vii) Minimum percentage of phosphorus.

(viii) Minimum and maximum percentage of salt (if added).

(ix) Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

(4) Required guarantees for beef cattle formula feeds.

(A) **Animal classes.**

(i) Calves (birth to weaning).

(ii)*(a)* Cattle on pasture.

(b) May be specific as to production stage, e.g. stocker, feeder, replacement heifers, brood cows, bulls, etc.

(iii) Feedlot cattle.

(B) Guaranteed analysis for beef complete feeds and supplements, all animal classes.

(i) Minimum percentage of crude protein.

(ii) Maximum percentage of equivalent crude protein from nonprotein nitrogen (NPN) when added.

(iii) Minimum percentage of crude fat.

(iv) Maximum percentage of crude fiber.

(v) Minimum and maximum percentage of calcium.

(vi) Minimum percentage of phosphorus.

(vii) Minimum and maximum percentage of salt (if added).

(viii) Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

(ix) Minimum percentage of potassium.

(x) Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

(C) Guaranteed analysis for beef mineral feeds (if added).

(i) Minimum and maximum percentage calcium.

(ii) Minimum percentage of phosphorus.

(iii) Minimum and maximum percentage of salt.

(iv) Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

(v) Minimum percentage of magnesium.

(vi) Minimum percentage of potassium.

(vii) Minimum copper in parts per million (ppm).

(viii) Minimum selenium in parts per million (ppm).

(ix) Minimum zinc in parts per million (ppm).

(x) Minimum vitamin A, other than precursors of vitamin A, in international units per pound.

(5) Required guarantees for dairy formula feeds.

(A) **Animal classes.**

(i) Veal milk replacer – milk replacer to be fed for veal production.

(ii) Herd milk replacer – milk replacer to be fed for herd replacement calves.

(iii) Starter – approximately three (3) days to three (3) months.

(iv) Non-Lactating Dairy Cattle: replacement dairy heifers, dairy bulls, and dairy calves.~~Growing heifers, bulls, and dairy beef, including:~~

~~*(a)* Grower 1 – three (3) months to twelve (12) months of age; and~~

~~*(b)* Grower 2 – more than twelve (12) months of age.~~

(v) Lactating dairy cattle.

(vi) Nonlactating (dry) dairy cattle.

(B) Guaranteed analysis for veal and herd replacement milk replacer.

(i) Minimum percentage crude protein.

(ii) Minimum percentage crude fat.

(iii) Maximum percentage of crude fiber.

(iv) Minimum and maximum percentage calcium.

(v) Minimum percentage of phosphorus.

(vi) Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

(C) Guaranteed analysis for dairy cattle complete feeds and supplements.

(i) Minimum percentage of crude protein.

(ii) Maximum percentage of equivalent crude protein from nonprotein nitrogen (NPN) when added.

(iii) Minimum percentage of crude fat.

(iv) Maximum percentage of crude fiber.

(v) Maximum percentage of acid detergent fiber (ADF).

(vi) Minimum and maximum percentage of calcium.

(vii) Minimum percentage of phosphorus.

(viii) Minimum selenium in parts per million (ppm).

(ix) Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

(D) ~~Guaranteed~~ Required guaranteed analysis for ~~daily~~ dairy mixing and pasture mineral, if added.

(i) Minimum and maximum percentage of calcium.

(ii) Minimum percentage of phosphorus.

(iii) Minimum and maximum percentage of salt.

(iv) Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

(v) Minimum percentage of magnesium.

(vi) Minimum percentage of potassium.

(vii) Minimum selenium in parts per million (ppm).

(viii) Minimum vitamin A, other than the precursors of vitamin A, in international units per pound.

(6) Required guarantees for equine formula feeds.

(A) **Animal classes.**

(i) ~~Foal~~Growing~~.~~;

(ii) ~~Mare.~~Broodmare;

(iii) ~~Breeding.~~Performance, Including Stallions; and

(iv) Maintenance.

(B) Guaranteed analysis for equine complete feeds and supplements, all animal classes.

(i) Minimum percentage of crude protein.

(ii) Minimum percentage of crude fat.

(iii) Maximum percentage of crude fiber.

(iv) Minimum and maximum percentage of calcium.

(v) Minimum percentage of phosphorus.

(vi) Minimum copper in parts per million (ppm).

(vii) Minimum selenium in parts per million (ppm).

(viii) Minimum zinc in parts per million (ppm).

(ix) Minimum vitamin A, other than the precursors of vitamin A, in international units per pound, ~~(if added)~~if added.

(x) Maximum percentage of Acid Detergent Fiber.

(xi) Maximum percentage of Neutral Detergent Fiber.

(C) Guaranteed analysis for equine mineral feed, all animal classes.

(i) Minimum and maximum percentage of calcium.

(ii) Minimum percentage of phosphorus.

(iii) Minimum and maximum percentage of salt, if added.

(iv) Minimum and maximum percentage of sodium ~~shall be guaranteed only when the total sodium exceeds that furnished by the maximum salt guarantee~~.

(v) Minimum copper in parts per million (ppm).

(vi) Minimum selenium in parts per million (ppm).

(vii) Minimum zinc in parts per million (ppm).

(viii) Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

(7) Required guarantees for goat ~~and sheep~~ formula feeds.

(A) **Animal classes.**

(i) Starter.

(ii) Grower.

(iii) Finisher.

(iv) Breeder.

(v) Lactating.

(B) Guaranteed analysis for goat ~~and sheep~~ complete feeds and supplements, all animal classes.

(i) Minimum percentage of crude protein.

(ii) Maximum percentage of equivalent crude protein from nonprotein

nitrogen (NPN) when added.

(iii) Minimum percentage of crude fat.

(iv) Maximum percentage of crude fiber.

(v) Minimum and maximum percentage of calcium.

(vi) Minimum percentage of phosphorus.

(vii) Minimum and maximum percentage of salt, if added.

(viii) Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

(ix) Minimum and maximum copper in parts per million (ppm~~), if added, or if total copper exceeds twenty (20) ppm~~.

(x) Minimum selenium in parts per million (ppm).

(xi) Minimum vitamin A, other than precursors of vitamin A, in international units per pound, if added.

(xii) Maximum percentage of Acid Detergent Fiber

(8) Required guarantees for sheep formula feeds.

(A) **Animal classes.**

(i) Starter.

(ii) Grower.

(iii) Finisher.

(iv) Breeder.

(v) Lactating.

(B) Guaranteed analysis for sheep complete feeds and supplements, all animal classes.

(i) Minimum percentage of crude protein.

(ii) Maximum percentage of equivalent crude protein from nonprotein nitrogen (NPN) when added.

(iii) Minimum percentage of crude fat.

(iv) Maximum percentage of crude fiber.

(v) Minimum and maximum percentage of calcium.

(vi) Minimum percentage of phosphorus.

(vii) Minimum and maximum percentage of salt, if added.

(viii) Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

(ix) Minimum and maximum copper in parts per million (ppm) (if added, or if total copper exceeds 20 ppm).

(x) Minimum selenium in parts per million (ppm).

(xi) Minimum vitamin A, other than precursors of vitamin A, in international units per pound, if added.

(~~8~~9) Required guarantees for duck and geese formula feeds.

(A) **Animal classes.**

(i) Ducks, including:

(a) Starter – zero to three (0-3) weeks of age;

(b) Grower – three to six (3-6) weeks of age;

(c) Finisher – six (6) weeks to market;

(d) Breeder developer – eight to nineteen (8-19) weeks of age; and

(e) Breeder – twenty-two (22) weeks to end of lay.

(ii) Geese, including:

(a) Starter – zero to four (0-4) weeks of age;

(b) Grower – four to eight (4-8) weeks of age;

(c) Finisher – eight (8) weeks to market;

(d) Breeder developer – ten to twenty-two (10-22) weeks of age; and

(e) Breeder – twenty-two (22) weeks to end of lay.

(B) Guaranteed analysis for duck and geese complete feeds and supplements, for all animal classes.

(i) Minimum percentage of crude protein.

(ii) Minimum percentage of crude fat.

(iii) Maximum percentage of crude fiber.

(iv) Minimum and maximum percentage of calcium.

(v) Minimum percentage of phosphorus.

(vi) Minimum and maximum percentage of salt, if added.

(vii) Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

(~~9~~10) Required guarantees for fish complete feeds and supplements.

(A) Animal species shall be declared in lieu of animal class:

(i) Trout;

(ii) Catfish; or

(iii) Species other than trout or catfish.

(B) Guaranteed analysis for all fish complete feeds and supplements.

(i) Minimum percentage of crude protein.

(ii) Minimum percentage of crude fat.

(iii) Maximum percentage of crude fiber.

(iv) Minimum percentage of phosphorus.

(~~10~~11) Required guarantees for rabbit complete feeds and supplements.

(A) **Animal classes.**

(i) Grower – four to twelve (4 -12) weeks of age.

(ii) Breeder – twelve (12) weeks of age and over.

(B) Guaranteed analysis for rabbit complete feeds and supplements, all animal classes.

(i) Minimum percentage of crude protein.

(ii) Minimum percentage of crude fat.

(iii)*(a)* Minimum and maximum percentage of crude fiber.

(b) The maximum crude fiber shall not exceed the minimum by more than five (5.0) units.

(iv) Minimum and maximum percentage of calcium.

(v) Minimum percentage of phosphorus.

(vi) Minimum and maximum percentage of salt, if added.

(vii) Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

(viii) Minimum vitamin A, other than precursors of vitamin A, in international units per pound, if added.

(~~11~~12) The required guarantees of grain mixtures with or without molasses and feeds other than those described in subdivisions (e)(2) – (10) of this section shall include the following items, unless exempted in subdivision (e)(12) of this section, in the order listed:

(A) Animal class or classes and species for which the product is intended; and

(B) Guaranteed analysis.

(i) Minimum percentage crude protein.

(ii) Maximum or minimum percentage of crude protein from nonprotein nitrogen as required in 2 CAR § 25-104(e).

(iii) Minimum percentage of crude fat.

(iv) Maximum percentage of crude fiber.

(v) Minerals in formula feeds, to include in the following order:

(a) Minimum and maximum percentages of calcium;

(b) Minimum percentage of phosphorus;

(c) Minimum and maximum percentage of salt, if added; and

(d) Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee~~.~~; and

(e) Other minerals.

(vi) Minerals in feed ingredients, as specified by the official definitions of the AAFCO.

(vii) Vitamins in such terms as specified in 2 CAR § 25-104(c).

(viii) Total sugars as invert on dried molasses products or products being sold primarily for their sugar content.

(ix) Viable lactic acid producing microorganisms for use in silages in terms specified in 2 CAR § 25-104(g).

(x) A commercial feed (e.g. vitamin/mineral premix, base mix, etc.) intended to provide a specialized nutritional source for use in the manufacture of other feeds must state its intended purpose and guarantee those nutrients relevant to such stated purpose.

(13) Required guarantees for treats (all animal classes and species exclusive of pets and specialty pets).

(i) Minimum percentage crude protein.

(ii) Minimum percentage of crude fat.

(iii) Maximum percentage of crude fiber.

(iv) Other guarantees, as needed to support nutrient content claims in the labeling as per 2 CAR §§ 25-103(e) and in accordance with terminology, order of guarantees, and units of expression as specified in 2 CAR §§ 25-104.

(~~12~~14) **Exemptions.**

(A) 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:

(a) Is intended for nonfood producing animals; and

(b) Contains less than six and one-half percent (6.5%) total mineral.

(B) Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement.

(C) 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, such as:

(i) Drug premixes;

(ii) Mineral or vitamin supplements; and

(iii) Molasses.

(D) 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.

(E) The indication for animal class or classes and species is not required on single ingredient products if the ingredient is not intended, represented, or defined for a specific animal class or classes or species.

(f)(1) Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of Arkansas Code § 2-37-105~~Section 5(a)(4) of Acts 1997, No. 726~~.

(2) The name of each ingredient:

(A) As defined in the Official Publication of the AAFCO;

(B) Common or usual name; or

(C) One approved by the State Plant Board.

(3) Collective terms for the grouping of feed ingredients as defined in the Official Definitions of Feed Ingredients published in the Official Publication of the AAFCO in lieu of the individual ingredients, provided that:

(A) 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; and

(B) 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 at manufacturing facilities distributing in or into the state.

(g) Directions for use and precautionary statements or reference to their location if

the detailed feeding directions and precautionary statements required by 2 CAR §§ 25-107 and 25-108 appear elsewhere on the label.

(h)(1) Name and principal mailing address of the manufacturer or person responsible for distributing the feed.

(2)~~(A)~~ The principal mailing address shall include:

(i) Street address;

(ii) City;

(iii) State; and

(iv) Zip code.

~~(B) However, the street address may be omitted if it is shown in the current city directory or telephone directory.~~

(i) Quantity statement.

2 CAR § 25-104. Expression of guarantees.

(a) The guarantees for crude protein, equivalent crude protein from nonprotein nitrogen, lysine, methionine, other amino acids, crude fat, crude fiber, and ~~acid detergent~~other fiber indicators shall be in terms of percentage.

(b) **Mineral guarantees.**

(1) When the calcium, salt, and sodium guarantees are given in the guaranteed analysis such shall be stated and conform to the following:

(A) When the minimum is below two and one-half percent (2.5%), the maximum shall not exceed the minimum by more than ~~one (1)~~zero point five percentage points (0.5%);

(B) When the minimum is two and one-half percent (2.5%) but less than five percent (5.0%), the maximum shall not exceed the minimum by more than one (1) percentage point; and

(C) When the minimum is above five percent (5.0%) or greater:

(i) The maximum shall not exceed the minimum by more than twenty percent (20%) of the minimum; and

(ii) In no case shall the maximum exceed the minimum by more than

five (5) percentage points.

(2)(A) When stated, guarantees for minimum and maximum total sodium and salt, minimum potassium, magnesium, sulfur, phosphorus, and maximum ~~fluoride~~ fluorine shall be in terms of percentage.

(B) Other minimum mineral guarantees shall be stated:

(i) In parts per million (ppm) when the concentration is less than ten thousand parts per million (10,000 ppm); and

(ii) 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) may state mineral guarantees in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with the quantity statement and directions for use.

(c)(1) Guarantees for minimum vitamin content of commercial feeds shall be listed in the order specified and are stated in milligrams/pounds (mg/lb) or in units consistent with those employed for the quantity statement unless otherwise specified:

(~~1~~A) Vitamin A, other than precursors of vitamin A, in international units per pound;

(~~2~~B) Vitamin D-3 in products offered for poultry feeding, in international chick units per pound;

(~~3~~C) Vitamin D for other uses, international units per pound;

(~~4~~D) Vitamin E, in international units per pound;

(~~5~~E) 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~~F) Vitamin B-12, in milligrams or micrograms per pound; and

(~~7~~G) All other vitamin guarantees shall express the vitamin activity in milligrams per pound in terms of the following:

(~~A~~i) Menadione;

(~~B~~ii) Riboflavin;

(~~C~~iii) D-pantothenic acid;

(~~D~~iv) Thiamin;

(~~E~~v) Niacin;

(~~F~~vi) Vitamin B-6;

(~~G~~vii) Folic acid;

(~~H~~viii) Choline;

(~~I~~xi) Biotin;

(~~J~~x) Inositol;

(~~K~~xi) P-amino benzoic acid;

(~~L~~xii) Ascorbic acid; and

(~~M~~xiii) Carotene.

(2) Products labeled with a quantity statement like tablets, capsules, granules, or liquids may state vitamin guarantees in milligrams per unit consistent with the quantity statement and directions for use.

(d) Guarantees for drugs shall be stated in terms of percent by weight, except:

(1) ~~Antibiotics~~Drugs, present at less than two thousand grams (2,000 g) per ton (total) of commercial feed shall be stated in grams per ton of commercial feed;

(2) ~~Antibiotics~~ Drugs present at two thousand (2,000) or more grams per ton (total) of commercial feed, shall be stated in grams per pound of commercial feed; and

~~(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 rules for certain antibiotics, wherein, quantitative guarantees are required regardless of the level or purpose of the antibiotic; and~~

(~~4~~3) 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 nonprotein nitrogen shall be labeled as follows:

(1) **For ruminants.**

(A) Complete feeds, supplements, and concentrates containing added nonprotein nitrogen and containing more than five percent (5%) protein from natural sources shall be guaranteed as follows:

Crude protein, minimum, _ _ _ _%. (This includes not more than _ _ _ _% equivalent crude protein from nonprotein nitrogen.).

(B) Mixed feed concentrates and supplements containing less than five percent (5%) protein from natural sources may be guaranteed as follows:

Equivalent crude protein from nonprotein nitrogen, minimum, _ _ _ _%.

(C) Ingredient sources of nonprotein nitrogen such as urea, diammonium phosphate, ammonium polyphosphate solution, ammoniated rice hulls, or other basic nonprotein nitrogen ingredients defined by the AAFCO shall be guaranteed as follows:

Nitrogen, minimum, _____%; and
Equivalent crude protein from nonprotein nitrogen, minimum, _ _ _%

(2) **For nonruminants.**

(A) Complete feeds, supplements, and concentrates containing crude protein from all forms of nonprotein nitrogen, added as such, 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 nonruminants containing more than one and one-quarter percent (1.25%) equivalent crude protein from all forms of nonprotein nitrogen, added as such, must contain adequate directions for use and a prominent statement:

> **WARNING:** This feed must 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:

(1) Minimum and maximum percentage of calcium, when present;

(2) The minimum percentage of phosphorus; and

(3) The maximum percentage of fluorine.

(g)(1) Guarantees for microorganisms shall be stated in:

(A) Colony forming units per gram (CFU/g) when directions are for using the product in grams; ~~or~~

(B) In colony forming units per pound (CFU/lb) when directions are for using the product in pounds.

(C) CFU per product unit (e.g., tablets, capsules, liquids) consistent with directions for use and the quantity statement

(2) A parenthetical statement following the guarantee shall list each species in order of predominance.

(h)(1) Guarantees for enzymes shall be stated in units of enzymatic activity per unit weight or volume, consistent with label directions.

(2)(A) The source organism for each type of enzymatic activity shall be specified.

Example: Protease (*Bacillus subtilis)* five and one half milligrams (5.5 mg) amino acids liberated/min/mg.

(B) If two (2) or more sources have the same type of activity, they shall be listed in order of predominance based on the amount of enzymatic activity provided.

(i) Guarantees for dietary starch, sugars, and fructans for commercial feeds, other than customer-formula feed, pet food, and specialty pet food products:

(1) A commercial feed which bears on its labeling a claim in any manner for levels of "dietary starch", "sugars", "fructans", or words of similar designation, shall include on the label:

(A) Guarantees for maximum percentage of dietary starch and maximum percentage of sugars, in the Guaranteed Analysis section immediately following the last fiber guarantee.

(B) A maximum percentage guarantee for fructans immediately following sugars, if the feed contains forage products.

(2) When such guarantees for dietary starch, sugars or fructans for commercial feeds appear on the label, feeding directions shall indicate the proper use of the feed product and a recommendation to consult with a veterinarian or nutritionist for a recommended diet.

2 CAR § 25-105. Suitability.

(a)(1) The nutritional content of commercial feed shall be as purported or is represented to possess by its labeling.

(2) Such animal feed, its labeling, and intended use must be suitable for the intended purpose of the product.

(b) Commercial feeds for swine, poultry, and fish, and milk replacer for veal calves and herd replacement calves, when fed according to directions, must meet the nutritional requirements established by:

(1) The Committee on Animal Nutrition of the National Research Council of the National Academy of Sciences; or

(2)(A) A signed affidavit attesting to the nutritional adequacy of the feed based upon valid scientific evidence.

(B)(i) Such affidavit shall be submitted to the ~~State Plant Board~~Arkansas Department of Agriculture upon request.

(ii) An affidavit certifying the feed sponsor has valid scientific knowledge which ensures suitability of the nutritional content of the feed product shall be submitted to the ~~board~~ department only when the suitability of a product is challenged.

(iii)*(a)* Submission of a completed "Affidavit of Suitability" shall serve as proof of suitability and therefore the feed sponsor shall not be required to provide scientific information nor any reference thereto unless the ~~board~~ State Plant Board has reason to believe that such product is not suitable for its intended use.

(b) In such case, the board shall have the authority to conduct a hearing pursuant to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., requiring the feed sponsor to produce sufficient scientific and other evidence of the product's suitability.

(C)(i) Upon receipt of a completed "Affidavit of Suitability", the feed sponsor may continue to market the product.

(ii) When such affidavit is not adequately submitted, the board may:

(a) Continue to stop sale the feed; and

(b) Order its removal from the marketplace as well as all other feeds manufactured or distributed under the same product name.

(D) The "Affidavit of Suitability" shall contain the following information:

(i) The feed company's name;

(ii) The feed's product name;

(iii) The name and title of the affiant submitting the document;

(iv) The statement that the affiant has knowledge of the nutritional content of the listed feed product and is familiar with the nutritional requirements for the animal species and animal class or classes for which the product is intended as established by the National Research Council of the National Academy of Science;

(v) The statement that the affiant has knowledge of valid scientific evidence that supports the suitability of the product for the intended animal species and animal class or classes for which the feed is intended;

(vi) The date of submission; and

(vii) The signature of the affiant notarized by a notary public.

2 CAR § 25-106. Ingredients.

(a) The name of each ingredient or collective term for the grouping of ingredients, when required to be listed, shall be:

(1) The name as defined in the Official Definitions of Feed Ingredients as published in the Official Publication of the AAFCO;

(2) The common or usual name; or

(3) One approved by the State Plant Board.

(b) The name of each ingredient must be shown in letters or type of the same size.

(c) No reference 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-ingredient product defined by the AAFCO is not required to have an ingredient statement.

(f) Tentative definitions for ingredients shall not be used until adopted as official, unless:

(1) No official definition exists; or

(2) 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 seven thousandths percent (0.007%) iodine, uniformly distributed.

2 CAR § 25-107. 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 nonnutritive 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 such articles; and

(2) Include, but not be limited to, all information described by all applicable rules under the Federal Food, Drug and Cosmetic Act.

(b) Adequate directions for use and precautionary statements are required for feeds containing nonprotein nitrogen as specified in 2 CAR § 25-108.

(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:

(1) Vitamin;

(2) Mineral; or

(3) Other dietary nutrient or compound.

(d) Raw milk distributed as commercial animal feed shall bear the following statement: "**WARNING: NOT FOR HUMAN CONSUMPTION – THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA."** This statement shall be displayed in a conspicuous manner and shall not be smaller than the height of the minimum font required by the Federal Fair Packaging and Labeling Act for the quantity statement as shown in the following:

(1) A panel size less than or equal to five (5) square inches requires a type size of no less than one sixteenth (1/16) inch;

(2) A panel size greater than five (5) square inches and less than or equal to twenty-five (25) square inches requires a type size of no less than one eigth (1/8) inch;

(3) A panel size greater than twenty-five (25) square inches and less than or equal to one hundred (100) square inches requires a type size of no less than three sixteenth (3/16) inch;

(4) A panel size greater than one hundred (100) square inches and less than or

equal to four hundred (400) square inches requires a type size of no less than one fourth (1/4) inch; and

(5) A panel size greater than four hundred (400) square inches requires a type size of no less than one half (1/2) inch;

2 CAR § 25-108. Nonprotein nitrogen.

(a)(1) Urea and other nonprotein nitrogen products defined in the Official Publication of the AAFCO are acceptable ingredients only in commercial feeds for ruminant animals as a source of equivalent crude protein.

(2)(A) If the commercial feed contains more than eight and seventy-five hundredths percent (8.75%) of equivalent crude protein from all forms of nonprotein nitrogen, added as such, or the equivalent crude protein from all forms of nonprotein nitrogen, added as such, exceeds one-third (1/3) of the total crude protein, the label shall bear:

(i) Adequate directions for the safe use of feeds; and

(ii) A precautionary statement: "CAUTION: USE AS DIRECTED".

(B) The directions for use and the caution statement shall be in type of such size so placed on the label that they will be read and understood by ordinary persons under customary conditions of purchase and use.

(b)(1) Nonprotein nitrogen products defined in the Official Publication of the AAFCO, when so indicated, are acceptable ingredients in commercial feeds distributed to nonruminant animals as a source of nutrients other than equivalent crude protein.

(2) The maximum equivalent crude protein from nonprotein nitrogen sources when used in nonruminant rations shall not exceed one and twenty-five hundredths percent (1.25%) of the total daily ration.

(3) On labels such as those for medicated feeds which bear adequate feeding directions and/or warning statements, the presence of added nonprotein nitrogen shall not require a duplication of the feeding directions or the precautionary statements as long as those statements include sufficient information to ensure the safe and effective use of this product due to the presence of nonprotein nitrogen.

(4) Feeding or use directions for those feeds in which more than fifty (50%) of the protein content is derived from non-protein nitrogen sources should include recommendations to provide adequate supplies of drinking water, sources of energy, such as forages and minerals, adaptation, or "warm-up", periods, and stress conditions, when necessary.

2 CAR § 25-109. Drug and feed additives.

(a) In order to distribute a commercial feed which contains additives (including drugs, other special purpose additives, or nonnutritive 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 such 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 such use;

(2) When the commercial feed is itself a drug as defined in Arkansas Code § 2-37-103 ~~Section 3~~(h) ~~of Acts 1997, No. 726,~~ and is ~~generally recognized as safe~~GRAS and effective for the labeled use or is marketed subject to an application approved by the United States Food and Drug Administration under Section 512 of the Federal Food, Drug and Cosmetic Act; or

(3) When one of the purposes for feeding a commercial feed is to impart immunity (that is, to act through some immunological process) the constituents imparting immunity have been approved for the purpose through the Federal Virus, Serum, and Toxins Act of 1913, as amended;

(4) When the commercial feed is a direct fed microbial product, and the:

(A) Product meets the particular fermentation product definition;

(B)(i) Microbial content statement, as expressed in the labeling, is limited to the following: "Contains as source of live (viable) naturally occurring microorganisms~~". "~~;

(ii) This statement shall appear on the label; and

(C) Source is stated with a corresponding guarantee expressed in accordance with 2 CAR § 25-104(g); and

(5) When the commercial feed is an enzyme product and the:

(A) Product meets the particular enzyme definition defined by AAFCO; and

(B) Enzyme is stated with a corresponding guarantee expressed in accordance with 2 CAR § 25-104(h).

2 CAR § 25-110. Adulteration.

(a) For the purpose of Arkansas Code § 2-37-107~~Section 7 of Acts 1997, No. 726~~, 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:

(A) Twenty hundredths of one percent (0.20%) for breeding and dairy cattle;

(B) Thirty hundredths of one percent (0.30%) for slaughter cattle;

(C) Thirty hundredths of one percent (0.30%) for sheep;

(D) Thirty-five hundredths of one percent (0.35%) for lambs;

(E) Forty-five hundredths of one percent (0.45%) for swine; and

(F) Sixty hundredths of one percent (0.60%) for poultry;

(2) ~~Flourine~~Fluorine-bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (exclusive of roughage) above the following amounts:

(A) Four thousandths of one percent (0.004%) for breeding and dairy cattle;

(B) Nine thousandths of one percent (0.009%) for slaughter cattle;

(C) Six thousandths of one percent (0.006%) for sheep;

(D) One one-hundredth of one percent (0.01%) for lambs;

(E) Fifteen thousandths of one percent (0.015%) for swine; and

(F) Three one-hundredths of one percent (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 fifty milligrams (50 mg) of fluorine per one hundred pounds (100 lbs.) of body weight;

(4) Soybean meal, flakes, or pellets or other vegetable meals, flakes, or pellets which have been extracted with trichloroethylene or other chlorinated solvents; ~~and~~

(5) Sulfur dioxide, sulfurous acid, and salts of sulfurous acid when used in or on feeds or feed ingredients which are considered or reported to be a significant source of vitamin B1 (thiamine~~).~~); and

(6) Raw leather residue from tanning or leather manufacture.

(b) All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough to destroy the viability of such weed seeds.

2 CAR § 25-111. Good manufacturing practices.

For the purposes of enforcement of Arkansas Code § 2-37-107~~Section 7 of Acts 1997, No. 726~~, the State Plant Board adopts the following as current good manufacturing practices:

(1) The rules prescribing current good manufacturing practices for Type B and Type C medicated feeds as published in 21 C.F.R. §§ 225.1–225.202; and

(2) The rules prescribing current good manufacturing practices for Type A Medicated Articles as published in 21 C.F.R. §§ 226.1–226.115.

2 CAR § 25-112. Licensing.

(a) (1) Any person:

(A) Who manufactures a commercial feed within this state;

(B) Who distributes a commercial feed in or into the state; or

(C) Whose name appears on the label of a commercial feed as guarantor,

shall obtain a license for each facility that distributes in or into the state authorizing him or her to manufacture or distribute commercial feed before they engage in such activity.

(2) Any person who makes only retail sales of commercial feed that bears labeling or other approved indication that the commercial feed is from a licensed manufacturer, guarantor, or distributor who has assumed full responsibility for the sum due for tonnage inspection under this chapter is not required to obtain a license.

(b)(1)(A) A person who is required to obtain a license shall submit an application on a form provided or approved by the Arkansas Department of Agriculture.

(B) The sum of ten dollars ($10.00) shall be paid to the department for each facility for which a license shall be issued.

(C) The department shall remit the sum to the Treasurer of State for deposit into the State Treasury to the credit of the Plant Board Fund to carry out the State Plant Board's functions, powers, and duties.

(2) A license shall expire on the last day of December of the year for which it is issued; provided that any license shall be valid through ninety (90) days of the next ensuing year or until the issuance of the renewal license, whichever event first occurs, if the holder thereof has filed a renewal application with the department on or before December 31st of the year for which the current license was issued.

(3) A new applicant who fails to obtain a license within fifteen (15) working days after notification of the requirement to obtain a license, or any licensee who fails to comply with license renewal requirements, shall pay the sum of thirty dollars ($30.00) in addition to the sum paid for the license.

(c) The form and content of the commercial feed license application shall be established by rules adopted by the board.

(d) The department may, at any time, request from a license applicant or licensee copies of labels and labeling in order to determine compliance with the provisions of this chapter.

(e)(1) The department is empowered to refuse to issue a license to any person not in compliance with the provisions of this chapter.

(2) The board may suspend or revoke any license issued to any person found not in compliance with any provision of this chapter.

(3) The board may place conditions that limit production or distribution of a particular commercial feed on the license of any person found not to be in compliance with this chapter.

(4) No license shall be conditioned, suspended, refused, or revoked unless the applicant or licensee is first given an opportunity to be heard before the board in order to comply with the requirements of this chapter.

(f)(1) In order to be exempt from the provisions of this chapter, integrated operators, as defined in Arkansas Code § 2-37-103, shall submit an application for exemption on a form provided or approved by the department.

(2) The sum of ten dollars ($10.00) shall be paid for each facility for which the exemption shall be issued.

(3) The department shall remit the sums paid under subdivision (f)(2) of this section to the Treasurer of State for deposit into the State Treasury to the credit of the State Plant Board Fund to carry out the board's functions, powers, and duties.

(g) A grower's production of unmanipulated poultry litter is exempt from the provisions of this chapter.

2 CAR § 25-113. Inspection fees and reports.

(a) The sum of thirty cents ($.30) per ton shall be paid on commercial feeds 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 cost, subject to the following:

(1) A sum shall not be paid on a commercial feed if the payment has been made by a previous distributor.

(2) A sum shall not be paid on customer-formula feeds if the sum for inspection is paid on the commercial feeds which are used as ingredients therein.

(3)(A) A sum shall not be paid on commercial feeds which are used as ingredients for the manufacture of commercial feeds.

(B) If the sum has already been paid, credit shall be given for such payment.

(4)(A) On commercial feed distributed in quantities of thirty-four (34) tons or less, a minimum sum of ten dollars ($10.00) per quarter shall be paid.

(B) A tonnage report and minimum sum is due for each reporting period, even though no distribution of commercial feeds occurred in the state during that period.

(b) Each person who is liable for the payment of such sums shall:

(1) File, not later than the last day in January, April, July, and October of each year, a quarterly statement, setting forth the number of net tons of commercial feeds distributed in this state during the preceding three (3) months. After filing the quarterly statement, the Arkansas Department of Agriculture shall invoice the party responsible at the rate stated in subsection (a) of this section. Inspection costs which are due and owed and have not been remitted to the department within fifteen (15) days following the date due shall have a penalty of fifteen percent (15%), or twenty-five dollars ($25.00), whichever is the higher, added to the amount due when payment is finally made. The assessment of this penalty shall not prevent the department from taking other actions as provided in this chapter.

(2) Keep such records as may be necessary or required by the department to indicate accurately the tonnage of commercial feed distributed in this state, and the department shall have the right to examine such records to verify statements of tonnage. Failure to make an accurate statement of tonnage or to pay the inspection costs or comply as provided herein shall constitute sufficient cause for the cancellation of the license of a distributor. However, no license shall be canceled or revoked before the distributor has been given an opportunity to be heard before the State Plant Board and to pay the sum owed under this section.

(c) Sums collected shall constitute a fund for the payment of the costs of inspection, sampling, and analysis, and other expenses necessary for administration of this chapter and shall be deposited into the State Treasury to the credit of the State Plant Board Fund.

2 CAR § 25-114. Prohibited acts.

The following acts and the causing thereof within the state are hereby prohibited:

(a) The manufacture or distribution of any commercial feed that is adulterated or misbranded.

(b) The adulteration or misbranding of any commercial feed.

(c) The distribution of agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, which are adulterated within the meaning of Arkansas Code § 2-37-107.

(d) The removal or disposal of a commercial feed in violation of any order under Arkansas Code § 2-37-112.

(e) The failure or refusal to obtain a license in accordance with Arkansas Code § 2-37-104.

(f) The violation of Arkansas Code § 2-37-113(f).

(g) Failure to pay inspection fees and file reports as required by Arkansas Code § 2-37-109.

(h) Bags or totes used for commercial feeds (including customer-formula feed) shall not be reused unless appropriately cleaned. A firm that intends to reuse bags or totes must document its cleanout procedures.

(i) The distribution of raw milk for use as a commercial animal feed for any species:

(1) If it has been decharacterized using food coloring not approved by the United States Food and Drug Administration, or in the case of raw milk labeled as organic, approved by the United States Department of Agriculture;

(2) If it has been decharacterized and the nutritive value of the milk has been adversely affected by the decharacterization;

(3) That is packaged in containers that are or resemble those used for the packaging of milk for human consumption;

(4) That is stored at retail with, or in the vicinity of, milk or milk products intended for human consumption; or

(5) If it does not comply with 2 CAR §§ 25-114 (a) through (h).

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

HOUSE BILL 1743

By: Representative Wooldridge
By: Senator D. Wallace

For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS FEED LAW OF 1997; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ARKANSAS FEED LAW OF 1997.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 2-37-102 is amended to read as follows:

2-37-102. Enforcing agency.

This chapter shall be administered by the ~~State Plant Board~~ Department of Agriculture.

SECTION 2. Arkansas Code § 2-37-103(a), concerning the definition of "board" under the Arkansas Feed Law of 1997, is repealed.

~~(a) "Board" means the State Plant Board.~~

SECTION 3. Arkansas Code § 2-37-103(o), concerning the definition of "official sample" under the Arkansas Feed Law of 1997, is amended to read as follows:

(o) "Official sample" means a sample of feed taken by the ~~board~~ Department of Agriculture or its agent in accordance with the provisions of § 2-37-111(c), (e), or (f).

SECTION 4. Arkansas Code § 2-37-104 is amended to read as follows:

2-37-104. Registration and licensing.

(a)(1) Any person:

(A) Who manufactures a commercial feed within this state;

(B) Who distributes a commercial feed in or into the state; or

(C) Whose name appears on the label of a commercial feed as guarantor,

shall obtain a license for each facility which distributes in or into the state authorizing him or her to manufacture or distribute commercial feed before he or she engages in such activity.

(2) Any person who makes only retail sales of commercial feed which bears labeling or other approved indication that the commercial feed is from a licensed manufacturer, guarantor, or distributor who has assumed full responsibility for the sum due for tonnage inspection ~~fee due~~ under this chapter is not required to obtain a license.

(b)(1)(A) A person who is required to obtain a license shall submit an application on a form provided or approved by the ~~State Plant Board~~ Department of Agriculture.

(B) The sum ~~accompanied by a license fee~~ of ten dollars ($10.00) shall be paid to the ~~board~~ department for each facility for which a license shall be issued.

(C) The department ~~The board~~ shall remit ~~such license fees~~ the sum to the Treasurer of State for deposit into the State Treasury to the credit of the Plant Board Fund ~~for the sole use of the board~~ in order to carry out the State Plant Board's functions, powers, and duties.

(2) A license shall expire on the last day of December of the year for which it is issued; provided that any license shall be valid through ninety (90) days of the next ensuing year or until the issuance of the renewal license, whichever event first occurs, if the holder thereof has filed a renewal application with the ~~board~~ department on or before December 31st of the year for which the current license was issued.

(3) A new applicant who fails to obtain a license within fifteen (15) working days after notification of the requirement to obtain a license, or any licensee who fails to comply with license renewal requirements, shall pay ~~a~~ the sum of thirty dollars ~~late fee~~ ($30.00) in addition to the sum paid for the license ~~fee~~.

(c) The form and content of the commercial feed license application shall be established by rules adopted by the board.

(d) The ~~board~~ department may, at any time, request from a license applicant or licensee copies of labels and labeling in order to determine compliance with the provisions of this chapter.

(e)(1) The ~~board~~ department is empowered to refuse to issue a license to any person not in compliance with the provisions of this chapter.

(2) The board may suspend or revoke any license issued to any person found not in compliance with any provision of this chapter.

(3) The board may place conditions that limit production or distribution of a particular commercial feed on the license of any person found not to be in compliance with this chapter.

(4) No license shall be conditioned, suspended, refused or revoked unless the applicant or licensee shall first be given an opportunity to be heard before the board in order to comply with the requirements of this chapter.

(f)(1) In order to be exempt from the provisions of this chapter, integrated operators, as defined in § 2-37-103, shall submit an application for exemption on a form provided or approved by the ~~board accompanied by an application fee~~ department.

(2) The sum of ten dollars ($10.00) shall be paid for each facility for which an exemption shall be issued.

(3) The board shall remit ~~such application fees~~ the sum paid under subdivision (f)(2) of this section to the Treasurer of State for deposit into the State Treasury to the credit of the Plant Board Fund ~~to be used solely by the board~~ to carry out the board's functions, powers, and duties.

(g) A grower's production of unmanipulated poultry litter is exempt from the provisions of this chapter.

SECTION 5. Arkansas Code § 2-37-108(g), concerning the prohibited act of failing to pay inspection fees and file reports under the Arkansas Feed Law of 1997, is amended to read as follows:

(g) Failure to pay sums for inspection ~~fees~~ and file reports as required by § 2-37-109.

SECTION 6. Arkansas Code § 2-37-109 is amended to read as follows:

2-37-109. Inspection ~~fees~~ and reports.

(a) ~~An inspection fee at the rate~~ The sum of thirty cents ($.30) per ton shall be paid on commercial feeds 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~~ cost, subject to the following:

(1) ~~No fee~~ A sum shall not be paid on a commercial feed if the payment has been made by a previous distributor.

(2) ~~No fee~~ A sum shall not be paid on customer-formula feeds if the inspection fee is paid on the commercial feeds which are used as ingredients therein.

(3)(A) ~~No fee~~ A sum shall not be paid on commercial feeds which are used as ingredients for the manufacture of commercial feeds.

(B) If the ~~fee~~ sum has already been paid, credit shall be given for such payment.

(4)(A) On commercial feed distributed in quantities of ~~twenty-five (25)~~ thirty-four (34) tons or less, a minimum ~~fee~~ sum of ten dollars ($10.00) per quarterly report shall be paid.

(B) A tonnage report and minimum ~~fee~~ sum is due for each reporting period, even though no distribution of commercial feeds occurred in the state during that period.

(b) Each person who is liable for the payment of such ~~fee~~ sum shall:

(1) File, not later than the last day in January, April, July, and October of each year, a quarterly statement~~,~~ setting forth the number of net tons of commercial feeds distributed in this state during the preceding three (3) months~~; and upon~~. After filing ~~such statement shall pay the inspection fee~~ the quarterly statement, the Department of Agriculture shall invoice the responsible party at the rate stated in subsection (a) of this section. Inspection ~~fees~~ costs which are due and owing and have not been remitted to the ~~State Plant Board~~ department within fifteen (15) days following the date due shall have a penalty ~~fee~~ of fifteen percent (15%) or twenty-five dollars ($25.00), whichever is the higher, 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 chapter.

(2) Keep such records as may be necessary or required by the ~~board~~ department to indicate accurately the tonnage of commercial feed

distributed in this state, and the ~~board~~ department shall have the right to examine such records to verify statements of tonnage. Failure to make an accurate statement of tonnage or to pay the inspection ~~fee~~ costs or comply as provided herein shall constitute sufficient cause for the cancellation of the license of a distributor. However, no license shall be canceled or revoked before the distributor has been given an opportunity to be heard before the board and to pay the ~~fees~~ sums owed under this section.

(c) ~~Fees~~ Sums collected shall constitute a fund for the payment of the costs of inspection, sampling, and analysis, and other expenses necessary for administration of this chapter and shall be deposited into the State Treasury to the credit of the ~~State~~ Plant Board Fund.

SECTION 7. Arkansas Code §§ 2-37-111 through 2-37-114 are amended to read as follows:

2-37-111. Inspection, sampling, and analysis.

(a) For the purpose of enforcement of this chapter~~,~~ and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees designated by the ~~State Plant Board~~ Department of Agriculture, upon presenting appropriate credentials~~,~~ and notice to the owner, operator, or agent in charge, are authorized:

(1) To enter, during normal business hours, any factory, warehouse, or establishment within the state in which commercial feeds are manufactured, processed, packed, or held for distribution, or to enter any vehicle being used to transport or hold such feeds; and

(2) To inspect at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling herein. The inspection may include the verification of only such records~~,~~ and production and control procedures as may be necessary to determine compliance with the good manufacturing practice rules established under § 2-37-107(15).

(b) Notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection the person in charge

of the facility or vehicle shall be so notified.

(c) If the owner of any factory, warehouse, or establishment described in subsection (a), or his or her agent, refuses to admit the ~~board~~ department or its agent to inspect in accordance with subsections (a) and (b), the ~~board~~ department is authorized to obtain from any state court a warrant directing such owner or his or her agent to submit premises described in such warrant to inspection.

(d) For the enforcement of this chapter, the ~~board~~ department or its designated agent is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine records relating to distribution of commercial feeds.

(e) Sampling and analysis shall be conducted in accordance with methods published by the AOAC International or in accordance with other generally recognized methods.

(f) The results of all analyses of official samples shall be forwarded by the ~~board~~ department to the person named on the label and to the purchaser. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded and upon request within thirty (30) days following the receipt of the analysis the ~~board~~ department shall furnish to the registrant or licensee a portion of the sample concerned.

(g) The ~~board~~ department, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample as defined in § 2-37-103(o) and obtained and analyzed as provided for in subsections (d) and (e) of this section.

2-37-112. Detained commercial feeds.

(a) Withdrawal from Distribution Orders.

(1) (A) When the ~~State Plant Board~~ Department of Agriculture or its authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this chapter or any of the prescribed rules under this chapter, the ~~board~~ department may issue and enforce a written or printed "withdrawal from distribution" order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the ~~board~~

department or the court.

(B) The ~~board~~ department shall release the lot of commercial feed so withdrawn when the provisions and rules have been complied with.

(C) If compliance is not obtained the ~~board~~ department may begin, or upon request of the distributor or registrant, shall begin proceedings for condemnation.

(2) A withdrawal from distribution order issued under this section expires thirty (30) days after the day it was first issued unless condemnation proceedings have begun in a court of competent jurisdiction.

(b) Condemnation and Confiscation.

(1) Any lot of commercial feed not in compliance with the provisions and rules shall be subject to seizure on complaint of the ~~board~~ State Plant Board to a court of competent jurisdiction in the area in which the commercial feed is located.

(2)(A) In the event the court finds the commercial feed to be in violation of this chapter 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.

(B) However, 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 re-label the commercial feed to bring it into compliance with this chapter.

(3) If the court orders the sale of the feed, the proceeds from the sale shall be remitted to the Treasurer of State to be credited to the General Revenue Fund Account of the State Apportionment Fund.

2-37-113. Penalties.

(a) A person convicted of violating any of the provisions of this chapter or who shall impede, hinder, or otherwise prevent, or attempt to prevent, the ~~State Plant Board~~ Department of Agriculture or its authorized agent in performance of his or her duty in connection with the provisions of this chapter, shall be adjudged guilty of a violation punishable by a fine of not more than fifty dollars ($50.00) for the first violation, and not more than two hundred dollars ($200) for each subsequent violation, and the

proceeds from such fines shall be remitted into the State Treasury to the credit of the General Revenue Fund Account of the State Apportionment Fund.

(b) Nothing in this chapter shall be construed as requiring the ~~board~~ department or its representative to:

(1) Report for prosecution;

(2) Institute seizure proceedings; or

(3) Issue a withdrawal from distribution order, as a result of minor violations of this chapter, or when the ~~board~~ department believes the public interest will best be served by suitable notice of warning in writing.

(c) In all prosecutions for violations of this chapter, the certificate of the analyst, or other officer making the analysis or examination, when sworn to or subscribed by the analyst or officer, shall be prima facie evidence of the facts therein certified.

(d) The ~~board~~ State Plant Board is authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule promulgated under this chapter notwithstanding the existence of other remedies at law. The injunction shall be issued without bond.

(e) A person adversely affected by an act, order, or ruling of the board made under the provisions of this chapter may within forty-five (45) days thereafter bring action in the Pulaski County Circuit Court for judicial review of the actions. The form of the proceeding may be any which may be provided by statutes of this state to review decisions of administrative agencies, or in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunctions.

(f) A person who uses to his or her own advantage, or reveals to other than the board or officers of the board or other officers of state agencies, or to the courts when relevant in any judicial proceeding, any information acquired under the authority of this chapter, concerning any method, records, formulations, or processes which as a trade secret is entitled to protection, is guilty of a Class C misdemeanor; provided, that this prohibition shall not be deemed as prohibiting the board or its authorized agent, from exchanging information of a regulatory nature with authorized officials of the United States Government, or of other states, who are similarly prohibited by law from revealing this information.

2-37-114. Cooperation with other entities.

The ~~State Plant Board~~ Department of Agriculture may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the United States Government, and private associations in order to carry out the purpose and provisions of this chapter.

APPROVED: 4/14/25