

TEXAS ADMINISTRATIVE CODE

TITLE 4. AGRICULTURE

CHAPTER 63

PET FOOD RULES

(Amended October 1, 2007)

**Adopted by the
TEXAS FEED AND FERTILIZER CONTROL SERVICE**

**Under the
TEXAS AGRICULTURE CODE (1981)
(As amended)**

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§63.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

AAFCO Dog and Cat Food Nutritional Profiles -- Practical standard nutrient profiles for dog and cat foods based on commonly used ingredients.

AAFCO Nutritional Task Force -- The Nutritional Task Force appointed by the Association of American Feed Control Officials (AAFCO).

Immediate Container -- The unit, can, box, tin, bag or other receptacle or covering in which a pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers.

Information panel -- Information panel as defined by 21 Code of Federal Regulations §501.2.

Ingredient statements -- A collective and contiguous listing on the label of the ingredients of which the pet food is composed.

National Research Council -- The National Research Council of the National Academy of Sciences.

Principal display panel -- Principal display panel as defined by 21 Code of Federal Regulations §501.1.

Quantity statement -- The net weight (mass), net volume (liquid or dry) or count.

Service -- Texas Feed and Fertilizer Control Service.

§63.2 Label Format and Labeling

- (a) The quantity statement and product name must be shown on the principal display panel. All other required information may be placed elsewhere on the label but shall be sufficiently conspicuous as to render it easily read by the average purchaser under ordinary conditions of purchase and sale.

- (b) The quantity statement shall be made in conformity with the United States Fair Packaging and Labeling Act, 15 United States Code §§1451 et seq., and the regulations promulgated thereunder.
- (c) The information which is required to appear in the “Guaranteed Analysis” shall be listed in the following order:
 - (1) crude protein (minimum percentage);
 - (2) crude fat (minimum percentage);
 - (3) crude fiber (maximum percentage);
 - (4) moisture (maximum percentage);
 - (5) additional guarantees shall follow moisture.
- (d) The label of a pet food shall specify the name and the address of the manufacturer, packer, or distributor of the pet food. The statement of the place of business should include the street address, if any, of such place unless such street address is shown in a current city directory or telephone directory.
- (e) If a person manufactures, packages, or distributes a pet food in a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such pet food was manufactured or packaged or is to be distributed, if such statement is not misleading in any particular.
- (f) A vignette, graphic, or pictorial representation of a product on a pet food label shall not misrepresent the contents of the package.
- (g) The use of the word “proven” in connection with label claims for a pet food is improper unless scientific or other empirical evidence establishing the claim represented as “proven” is available.
- (h) No statement shall appear upon the label of a pet food which makes false or misleading comparisons between that pet food and any other pet food.

- (i) Personal or commercial endorsements are permitted on pet food labels where said endorsements are factual and not otherwise misleading.
- (j) When a pet food is enclosed in an outer container or wrapper which is intended for retail sale, all required label information must appear on such outside wrapper or container unless all of the required label information is readily legible through apertures or transparencies in such outside container or wrapper.
- (k) The word “dog food,” “cat food,” or similar designations must appear conspicuously upon the principal display panels of the pet food labels.
- (l) The label of a pet food shall not contain an unqualified representation or claim, directly or indirectly, that the pet food therein contained or a recommended feeding thereof, is or meets the requisites of a complete, perfect, scientific, or balanced ration for dogs or cats unless such product or feeding:
 - (1) contains ingredients in quantities sufficient to meet the nutrient requirements for all life stages established by the AAFCO Dog or Cat Food Nutrient Profiles, as the case may be, or some other FFCS-recognized authority on animal nutrition such as the Committee on Animal Nutrition of the National Research Council to the extent that the product’s ingredients provide nutrients in amounts which substantially deviate from those nutrient requirements estimated by such a recognized authority on animal nutrition, or in the event that no estimation has been made by a recognized authority on animal nutrition of the requirements of animals for one or more stages of said animals’ lives, the product’s represented capabilities in this regard must have been demonstrated by adequate testing; or
 - (2) contains a combination of ingredients which when fed to a normal animal as the only source of nourishment in accordance with the testing procedures established by AAFCO meets the criteria of such testing procedures for all life stages.

- (m) Labels for products which are compounded for or which are suitable for only a limited purpose (i.e., a product designed for the feeding of puppies) may contain representations that said pet food product or recommended feeding thereof, is or meets the requisites of a complete, perfect, scientific, or balanced ration for dogs or cats only:
 - (1) in conjunction with a statement of the limited purpose for which the product is intended or suitable (as, for example, in the statement “a complete food for puppies”). Such representations and such required qualifications therefore shall be juxtaposed on the same panel and in the same size, style and color print; and
 - (2) such qualified representations may appear on pet food labels only if:
 - (A) the pet food contains ingredients in quantities sufficient to meet the nutrient requirements established by the AAFCO Dog or Cat Food Nutrient Profiles, as the case may be, or some other FFCS-recognized authority on animal nutrition, such as the Committee on Animal Nutrition of the National Research Council for such limited or qualified purpose; or
 - (B) the pet food product contains a combination of ingredients which when fed for such limited purpose will satisfy the nutrient requirements for such limited purpose and has had its capabilities in this regard demonstrated by adequate testing.
- (n) Except as specified by §63.3(a) of this title (relating to Brand and Product Names), the name of any ingredient which appears on the label other than in the product name shall not be given undue emphasis so as to create the impression that such an ingredient is present in the product in a larger amount than is the fact, the aforementioned ingredient shall constitute at least 3.0% of the total ingredients (exclusive of water for processing) when preceded by the designation “with” or like term, the name shall be in the same size, style and color print, and if the names of more than one such ingredient are shown, they shall appear in the order of their respective predominance by weight in the product.

- (o) The label of dog or cat food, other than one prominently identified as a snack or treat as part of the designation required upon the principal display panel under subsection (k) of this section, shall bear, on either the principal display panel or the information panel, in type of a size reasonably related to the largest type on the panel, a statement of the nutritional adequacy or purpose of the product. Such statement shall consist of one of the following:
- (1) a claim that the pet food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation, lactation, growth, maintenance, and complete for all life stages as those categories are set forth in subsections (l) and (m) of this section. The claim shall be stated as one of the following:
 - (A) (Name of Product) is formulated to meet the nutritional levels established by the AAFCO Dog (or Cat) Food Nutrient Profiles for _____. (Blank is to be completed by using the stage or stages of the pet's life, such as gestation, lactation, growth, maintenance, or the words "All Life Stages.");
 - (B) Animal Feeding tests using AAFCO procedures substantiate that (name of product) provides complete and balanced nutrition for _____. (Blank is to be completed by using the stage or stages of the pet's life tested, such as gestation, lactation, growth, maintenance or the words "All Life Stages.");
 - (2) a nutrition or dietary claim for purposes other than those listed in subsections (l) and (m) of this section if the claim is scientifically substantiated;
 - (3) the statement: "This product is intended for intermittent or supplemental feeding only," if a product does not meet either the requirements of subsections (l) or (m) or any other special nutritional or dietary need and so is suitable only for limited, intermittent, or supplementary feeding;
 - (4) the statement: "Use only as directed by your veterinarian," if it is a pet food product intended for use by, or under the supervision or direction of, a veterinarian and shall make a statement in accordance with paragraph (1), (2) or (3) of this subsection.

- (p) The use of claims on pet food labels stating improvement or newness shall be sufficiently substantiated by the manufacturer and limited to six months production. The use of claims stating preference or comparative attribute claims shall be sufficiently substantiated by the manufacturer and limited to one year production after which the claim must be removed or resubstantiated.
- (q) Dog and cat foods labeled as complete and balanced for any or all life's stages as provided in subsection (o)(1) of this section except those pet foods labeled in accordance with subsection (o)(4) of this section shall list feeding directions on the product label. These directions shall be expressed in common terms and shall appear prominently on the label. Feeding directions shall, at a minimum, state "Feed (weight/unit of product) per (weight unit) of dog (or cat)."

§63.3 Brand and Product Names

- (a) No flavor designation shall be used on a pet food label unless the designated flavor is detectable by a recognized test method, or is one the presence of which provides a characteristic distinguishable by the pet. Any flavor designation on a pet food label must either conform to the name of its source as shown in the ingredients statement, or the ingredients statement shall show the source of the flavor. The word flavor shall be printed in the same size type and with an equal degree of conspicuousness as the ingredient term(s) from which the flavor designation is derived. Distributors of pet food employing such flavor designation or claims on the label of a product distributed by them shall, upon request, supply verification of the designated or claimed flavor to the Service.
- (b) The designation "100%" or "all" or words of similar connotation shall not be used in the brand or product name of a pet food if it contains more than one ingredient. However, for the purpose of this provision, water sufficient for processing, required decharacterizing agents, and trace amounts of preservatives and condiments shall not be considered ingredients.

- (c) 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 from cattle, swine, sheep, and goats. For example, “horsemeat” and “horsemeat by-products.”
- (d) The name of the pet food shall not be derived from one or more ingredients of a mixture of a pet food product unless all components or ingredients are included in the name except as specified by subsections (a), (e), or (f) of this section; provided, that the name of an ingredient or combination of ingredients may be used as part of the product name if:
 - (1) the ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product or is present in amounts which have a material bearing upon the price of the product or upon acceptance of the product by the purchaser thereof;
 - (2) it does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients; or
 - (3) it is not otherwise false or misleading.
- (e) When an ingredient or a combination of ingredients derived from animals, poultry, or fish constitutes 95% or more of the total weight of all ingredients of a pet food mixture, the name or names of such ingredient(s) may form a part of the product name of the pet food; provided, that where more than one ingredient is part of such product name, then all such ingredient names shall be in the same size, style, and color print. For the purpose of this provision, water sufficient for processing shall be excluded when calculating the percentage of the named ingredient(s); however, such named ingredient(s) shall constitute at least 70% of the total product.
- (f) When an ingredient or combination of ingredients constitutes at least 25% but less than 95% of the total weight of all ingredients of a dog or cat food mixture, the name or names of such ingredient(s) may form a part of the product name of the pet food if each of the ingredients constitutes at least 3.0% of the product

weight excluding water used for processing and only if the product name also includes a primary descriptive term such as “dinner,” “platter,” or similar designation so that the product name describes the contents of the product in accordance with an established law, custom, or usage or so that the product name is not misleading. If the names of more than one such ingredient are shown, they shall appear in the order of their respective predominance by weight in the product. All such ingredient names and primary descriptive terms shall be in the same size, style, and color print. For the purpose of this provision, water sufficient for processing shall be excluded when calculating the percentage of the named ingredient(s). However, such named ingredient(s) shall constitute at least 10% of the total product.

- (g) Contractions or coined names referring to ingredients shall not be used in the brand name of a pet food unless it is in compliance with subsections (a), (d), (e), or (f) of this section.

§63.4 Expression of Guarantees

- (a) The sliding scale method of expressing a guaranteed analysis (for example, “protein 15-18%”) is prohibited.
- (b) Pursuant to Texas Commercial Feed Control Act, §141.002(d), the label of a pet food which is formulated as and represented to be a mineral supplement shall include in the guaranteed analysis the minimum and maximum percentages of calcium, the minimum percentage of phosphorus, and the minimum and maximum percentages of salt. The minimum content of all other essential nutrient elements recognized by the AAFCO Dog or Cat Food Nutrient Profile or FFCS-recognized nutrient profile from sources declared in the ingredients statement shall be expressed as the element in units specified in the recognized nutrient profile. Products labeled as per §63.2(b) of this title (relating to Label Format and Labeling) may express the mineral guarantees in milligrams (mg) per unit (e.g., tablets, capsules, granules or liquids) consistent with those employed in the quantity statement and directions for use. Liquids expressed as volume must also list a weight equivalent (e.g., 1 fluid ounce = 28 grams).

- (c) The label of pet food which is formulated as and represented to be a vitamin supplement shall include a guarantee of the minimum content of each vitamin declared in the ingredients statement. Vitamin guarantees shall be expressed as per subsection (d) of this section. Products labeled as per §63.2(b) of this title (relating to Label Format and Labeling) may express the vitamin guarantees in approved units per unit (e.g., tablets, capsules, granules or liquid) consistent with those employed in the quantity statement and directions for use. Liquids expressed as volume must also list a weight equivalent (e.g., 1 fluid ounce = 28 grams).
- (d) Vitamins guaranteed on pet food labels shall be stated in international units per kilogram (IU/kg) for vitamins A, D, and E. All other vitamins shall be guaranteed in milligrams per kilogram (mg/kg) except vitamins which may be guaranteed in micrograms per kilogram (mcg/kg).
- (e) If the label of a pet food does not represent the pet food to be either a vitamin or a mineral supplement, but does include a table of comparison of a typical analysis of the vitamin, mineral, or nutrient content of the pet food with levels recommended by an AAFCO– recognized animal nutrition authority, such comparison may be stated in the units of measurement used in the AAFCO Dog or Cat Food Nutrient Profiles. The statement in a table of comparison of the vitamin, mineral, or nutrient content shall constitute a guarantee, but need not be repeated in the guaranteed analysis. Such table of comparison may appear on the label separate and apart from the guaranteed analysis.
- (f) The use of percentages or words of similar import when referring to nutrient levels established by the AAFCO Dog or Cat Food Nutrient Profile or other recognized nutrient profile shall not be permitted on pet food labels except that such direct comparisons in whole or part of the individual nutrient contents of a pet food with those recommended by the recognized nutrient profile may be made where the comparisons are expressed in the same quantitative units as those used by the cited nutrient profile and:
 - (1) the product in question meets the nutrient profile recommended by the authority; and
 - (2) the comparison is prescribed by a statement to that effect.

§63.5 Ingredients

- (a) The maximum moisture in all pet foods shall be guaranteed and shall not exceed 78% or the natural moisture content of the constituent ingredients of the product, whichever is greater. Pet foods such as those consisting principally of stew, gravy, sauce, broth, juice or a milk replacer which are so labeled, may contain moisture in excess of 78%.
- (b) Each ingredient of the pet food shall be listed in the ingredient statement, and names of all ingredients in the ingredient statement must be shown in letters or type of the same size. The failure to list the ingredients of a pet food in descending order by their predominance by weight in nonquantitative terms may be misleading. Any ingredient for which the Association of American Feed Control Officials has established a name and definition shall be identified by the name so established. Any ingredient for which no name and definition has been so established shall be identified by the common or usual name of the ingredient. Brand or trade names shall not be used in the ingredient statement.
- (c) The term “dehydrated” may precede the name of any ingredient in the ingredient list that has been artificially dried.
- (d) No reference to quality or grade of an ingredient shall appear in the ingredient statement of a pet food.
- (e) A reference to the quality, nature, form, or other attribute of an ingredient shall not be made unless such designation is accurate and unless the ingredient imparts a distinctive characteristic to the pet food because it possesses that attribute.

§63.6 Directions for Use

- (a) The label of a pet food product which is suitable only for intermittent or supplemental feeding or for some other limited purpose shall:
 - (1) bear a close and conspicuous disclosure to that effect; or

- (2) contain specific feeding directions which clearly state that the product should be used only in conjunction with other foods.

- (b) When a dog or cat food is intended for use by, or under the supervision or direction of a veterinarian, the statement: "Use only as directed by your veterinarian" may be used in lieu of feeding directions.

- (c) Specialty pet food, including snacks or treats, labeled as complete and balanced for any or all life stages, shall list feeding directions on the product label. These feeding directions shall be adequate to meet the nutrient requirements of the intended species of specialty pet as recommended by the AAFCO-recognized nutritional authority. These directions shall be expressed in common terms and shall appear prominently on the label. The frequency of feeding shall also be specified.

§63.7 Drugs and Pet Food Additives

- (a) An artificial color may be used in a pet food only if it has been shown to be harmless to pets. The permanent or provisional listing of an artificial color in the United States Food and Drug Regulations as safe for use, together with the conditions, limitations, and tolerances, if any, incorporated therein, shall be deemed to be satisfactory evidence that the color is, when used pursuant to such regulations, harmless to pets.

- (b) Prior to registration of a pet food 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 pet food, when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food may be:
 - (1) when the pet food 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 "generally recognized as safe" for such use; or

- (2) when the pet food itself is a drug and is generally recognized as safe and effective for label use or is marketed subject to an application approved by the Food and Drug Administration under Title 21 United States Code §360 (b).
- (c) The medicated labeling format recommended by Association of American Feed Control Officials shall be used to assure that adequate labeling is provided.

§63.8 Registration of Pet Foods in Packages of Five Pounds or Less

- (a) In addition to obtaining a license as prescribed in the Act and the general rules, each brand and product name of a pet food distributed in individual containers of five pounds or less must be registered before it may be distributed.
- (b) All labeling information shall be submitted with the registration of the product.
- (c) The Service may require the applicant to present evidence of authorization to use a registered trademark or other labeling reference and that the ownership of such trademark, if referenced, appear inconspicuously both as to size or type and location on the label (or labeling) and that components of such trademark product be determinable by laboratory methods.

§63.9 Statement of Caloric Content

- (a) The label of a dog or cat food may bear a statement of caloric content, provided:
 - (1) the statement shall be separate and distinct from the “Guaranteed Analysis” and shall appear under the heading “Caloric Content”;
 - (2) the statement shall be measured in terms of metabolizable energy (ME) on as fed basis and must be expressed as “kilocalories per kilogram” (“kcal/kg”) of product, and may also be expressed as kilocalories per familiar household measure (e.g., cans, cups, pounds); and

- (3) an affidavit shall accompany the request for label review substantiating that the caloric content was determined:
- (A) by calculation using the following “Modified Atwater” formula: $ME \text{ (kcal/kg)} = 10 (3.5 \times CP) + (8.5 \times CF) + (3.5 \times NFE)$ where CP = % crude protein as fed, CF = % crude fat as fed, NFE = % nitrogen-free extract (carbohydrate) as fed and the percentages of CP and CF are the arithmetic averages from proximate analyses of at least four production batches of the product, and the NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture and ash (determined in the same manner as CP and CF). The results of all the analyses used in the calculation must accompany the affidavit, and the claim on the label or other labeling must be followed parenthetically by the word “calculated”;
 - (B) in accordance with a testing procedure established by the Association of American Feed Control Officials. The summary data used in the determination of caloric content must accompany the affidavit. The value stated on the label shall not exceed or understate the value determined in accordance with subparagraph (A) of this paragraph by more than 15%; and
- (4) comparative claims shall not be false, misleading or given undue emphasis and must be based on the same methodology for both products.
- (b) Labels of a dog or cat food bearing descriptors of caloric or fat content shall comply with the following:
- (1) When using the term “Light,” “Lite,” “Low Calorie,” or words of similar designation:
 - (A) Dog food product labels shall contain and state no more than 3,100 kcal ME/kg for products containing 15% or less moisture, no more than 2,500 kcal ME/kg for products containing more than 15% but less than 50% moisture, and no more than 900 kcal ME/kg for products containing 50% or more moisture. The label

shall bear a calorie content statement. Feeding directions shall reflect a reduction in calorie intake consistent with the intended use.

- (B) Cat food product labels shall contain and claim no more than 3,250 kcal ME/kg for products containing 15% or less moisture, no more than 2,650 kcal ME/kg for products containing more than 15% but less than 50% moisture, and no more than 950 kcal ME/kg for products containing 50% or more moisture. The label shall bear a calorie content statement. Feeding directions shall reflect a reduction in calorie intake consistent with the intended use.
- (2) When using the term “Less” or “Reduced Calories” or words of similar designation, the percentage of reduction and the product of comparison shall be explicitly stated and juxtaposed with the claim in the same size, style, and color print. The product label shall also bear a calorie content statement. Comparisons between products in different categories of moisture content (15% or less, more than 15% but less than 50%, 50% or more) are misleading. Feeding directions shall reflect a reduction in calories compared to feeding directions for the product of comparison.
 - (3) When using the terms “Lean,” “Low Fat,” or word of similar designation:
 - (A) Dog food product labels shall contain and guarantee no more than 9% crude fat for products containing 15% or less moisture, no more than 7% crude fat for products containing more than 15% but less than 50% moisture, and no more than 4% crude fat for products containing 50% or more moisture. The product label shall bear a maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in §63.2(c).
 - (B) Cat food product labels shall contain and guarantee no more than 10% crude fat for products containing 15% or less moisture, no more than 8% crude fat for products containing more than 15% but less than 50% moisture, and no more than 5% crude fat for products containing 50% or more moisture. The product label shall bear a maximum

crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis as specified in §63.2(c) of this title.

- (4) When using the term “Less,” “Reduced Fat,” or words of similar designation on cat food labels, the percentage of reduction and the product of comparison shall be explicitly stated and juxtaposed with the claim in the same size, style, and color print. The product label shall also bear a maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in §63.2 (c) of this title. Comparisons between products in different categories of moisture content (15% or less, more than 15% but less than 50%, 50% or more) are misleading.

§63.20 Compliance with Texas Commercial Feed Rules

The Pet Food Rules are a subset of the Feed Rules issued under the authority of Texas Commercial Feed Act, §141.004; they do not replace them. Registrants are expected to comply with the applicable sections of those rules where the Pet Food Rules are silent.

NOTES

