

COLORADO DEPARTMENT OF AGRICULTURE

Inspection and Consumer Services Division

Rules for Pet Food Under the Colorado Feed Law, Sections 35-60-101 through 115, C.R.S.

8 CCR 1202-7

Part 16. Commercial Feed Registration

No person shall manufacture commercial feed within the state or allow his or her name to appear on the label of a commercial feed as guarantor, without first registering with the Department as required by Sections 35-60-103, C.R.S., and 35-60-104. Such registration shall expire on January 31st and may be renewed annually.

Part 17. Distribution Fees-Reports

- 17.1. A distributor who is subject to a tonnage distribution fee required by Section 35-60-105(1), C.R.S., shall file with the Commissioner, no later than January 31st each year, a statement that sets forth the number of net tons of commercial feeds distributed in the state.
- 17.2. A distributor who is subject to the distribution fee for small packages of ten pounds or less shall file with the Commissioner, no later than January 31st each year, a list of all small package products of ten pounds or less that are distributed in this state.
- 17.3. A distributor who is subject to a tonnage distribution fee required by Section 35-60-105(1), C.R.S., and the distribution fee for small packages of ten pounds or less shall comply with both Parts 17.1 and 17.2 of these Rules.

Part 18. Statements of Basis, Specific Statutory Authority and Purpose

18.1. Adopted April 10, 2001 – Effective May 30, 2001

STATUTORY AUTHORITY:

The Commissioner of Agriculture, Colorado Department of Agriculture, adopts these permanent rules pursuant to the provisions and requirements of the Colorado Commercial Feed Law, § 35-60- 109(1), C.R.S. (2000).

PURPOSE:

The purpose of these rules is to comply with the requirements of the Colorado Commercial Feed to provide specific guidelines for the manufacture, labeling and distribution of commercial feed.

These rules are designed to:

- Set standards for the correct labeling of livestock and pet food.
- Set standards for good manufacturing practices for medicated livestock feed.

FACTUAL AND POLICY ISSUES:

The factual and policy issues encountered in the proposal of these permanent rules are as follows:

1. The Colorado Commercial Feed Law was repealed and reenacted effective January 1, 2000. That statute requires the Commissioner to adopt the Official Definitions of Feed Ingredients and Official Feed Terms adopted by the Association of American Feed Control Officials, Inc. AAFCO), as published in the official publication of such association.
2. These new, revised rules are based upon national standard (model) regulations developed by AAFCO, a nation-wide group of regulatory officials. They are specifically for the purpose of promoting standardization between states for the animal feed industry.
3. Over 30% of the states have adopted the AAFCO model regulations. These rules are widely accepted by Colorado and national feed companies. Adoption of these rules would help to ensure uniform labeling requirements.
4. The Department met with the Colorado Grain and Feed Association's (CGFA) Feed Committee throughout the rule drafting process. The CGFA supports these new rules and regulations.
5. Two sets of rules are needed, one for livestock feed, the other for pet food. Livestock feed rules are specific to matters regarding production, animal growth and weight gain, and use of medications in feed. Pet food rules employ separate criteria for complete and balanced nutrition and provide regulatory guidance for advertising and claims frequently found on pet food labels.

18.2. Adopted November 1, 2007 – Effective December 30, 2007

STATUTORY AUTHORITY

These amendments are proposed for adoption by the Commissioner pursuant to his authority in section 35-60-109(1), C.R.S.

PURPOSE

The purposes of these amendments are as follows:

- (a) To amend the name of the Act used in the Rules to correspond with the new name adopted under Senate Bill 07-207.
- (b) To amend the listing of guarantees from an "as fed" basis to an "as is" basis.
- (c) Modify the definition of "pet."
- (d) Update the references to the official publications of the Association of American Feed Control Officials (AAFCO) incorporated by reference to the 2007 version.
- (e) To add section 14 to contain the Statements of Basis, Specific Statutory Authority and Purpose.
- (f) To correct typographical errors.

FACTUAL BASIS

- (a) On May 22, 2007, the Colorado Commercial Feed Law was amended by Senate Bill 07-207. The title of the law was amended to the Colorado Feed Law.
- (b) The current rules require the guaranteed analysis to be listed on an "as fed" basis. The AAFCO national standard requires it to be listed on an "as is" basis.

- (c) The AAFCO national standard definition of “pet” means dog or cat.

18.3. Adopted February 11, 2015 – Effective March 30, 2015

The Commissioner's authority for the adoption of these permanent Rule amendments is set forth in Section 35-60-109(1), C.R.S.

The Purpose of this rulemaking is to:

1. Edit Part 1 Legal Authority to include all rulemaking authority in 35-60, C.R.S.
2. Update the references throughout the Rules to the official publication of the Association of American Feed Control Officials (AAFCO) incorporated by reference to the 2015 version.
3. Add Part 2.3 to specify the commodities that are exempted from the definition of “commercial feed”, and to define when that exemption does not apply.
4. Edit Part 2.15 and 2.18 for clarity.
5. Add Part 3.9 to specify raw pet food labeling requirements to include safe handling directions on the label.
6. Amend Part 4.2.1 product name requirements for pet foods to give manufacturers more flexibility when using the “95% rule.”
7. Amend Part 4.2.2 for clarity and uniformity.
8. Add Part 5.10 to specify labeling exemptions for pet food items made from animal skin and/or cartilage to allow these products to be distributed without a guaranteed analysis statement.
9. Add Part 13 (adulterants), Part 15 (false or incomplete information), Part 16 (commercial feed registration), and Part 17 (distribution fees-reports).
10. Correct typographical errors.
11. Reformat Rules to meet new rulemaking guidelines.

Factual and Policy Basis

The factual and policy issues pertaining to the adoption of these permanent Rule amendments are as follows:

1. The previous version of these Rules did not include the rulemaking authority under Section 35-60-102(2), C.R.S.
2. Numerous changes to the AAFCO publication have occurred since the printing of the 2007 version which is referenced in the Rules. This change will make our Rules more consistent with other states' feed Rules.
3. This Rule needed to be added to make the Pet Food Rules a stand-alone set of Rules.
4. Raw pet food safe handling labeling requirements are needed to ensure the safe use of these type products.

5. When the Rule was originally drafted, manufacturers typically only used meat ingredients in the product name. Current pet food products incorporate many ingredients that, under the current Rule, cannot be used as part of the product name. This change will allow manufacturers more flexibility with naming products.
6. The industry standard for labeling of rawhide pet treats does not include a guaranteed analysis statement. This eliminates the need for national distributors to re-label their products.
7. Parts 13, 15, 16 and 17 were previously sub-Rules under 1202-6 (Rules for Commercial Feed). Parts 13, 15, 16, and 17 have been copied from 8 CCR 1202-6 and duplicated in 8 CCR 1202-7 (Rules for Pet Food) in order to make the Pet Food Rules a stand-alone set of rules.
8. These amendments incorporate changes as a result of the Department's Regulatory Efficiency Review Process.

18.4. Adopted February 10, 2016- Effective March 30, 2016

The Commissioner's authority for the adoption of this permanent Rule amendment is set forth in Section 35-60-109(1), C.R.S.

The Purpose of this rulemaking is to:

1. Add Part 3.1.9 to include the requirement of the date of manufacture, processing, packaging, or repackaging or a code that permits the determination of the date to be included in the label.

Factual and Policy Basis

The factual and policy issue pertaining to the adoption of this permanent Rule amendment is as follows:

1. The date of manufacture, processing, packaging, or repackaging or a code that permits the determination of the date as required in Section 35-60-106(1)(g), C.R.S., is being added to the Rule so that the Rule will contain the complete requirements for labeling a pet food product.

18.5. Adopted November 9, 2016- Effective December 30, 2016

The Commissioner's authority for the adoption of this permanent Rule amendment is set forth in § 35-60-103(1), § 35-60-105(3)(a), and § 35-60-105(4), C.R.S.

The Purpose of this rulemaking is to:

Change the date in Part 16 and Parts 17.2 for registrations and the due date for small package distribution reports and fees to January 31st.

The factual and policy issue pertaining to the adoption of this permanent Rule amendment is as follows:

1. Currently, feed registrants have to log into the Department's licensing system at separate times of the year to complete the registration and reporting process. This can be burdensome to registrants and be prone to mistakes.
2. After consulting with industry stakeholders, the Department has proposed to synchronize all deadlines associated with the larger registration process to make the process more efficient for registrants.