NEBRASKA ADMINISTRATIVE CODE

TITLE 25 NEBRASKA ADMINISTRATIVE CODE CHAPTER 3

NEBRASKA DEPARTMENT OF AGRICULTURE

NEBRASKA COMMERCIAL FEED REGULATIONS

March 2008, Amendment

NEBRASKA ADMINISTRATIVE CODE

TITLE 25 - DEPARTMENT OF AGRICULTURE, PLANT INDUSTRY DIVISION

Chapter 3 - NEBRASKA COMMERCIAL FEED REGULATIONS

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LAST DATE AMENDED: October 21. 2001

TITLE 25 - DEPARTMENT OF AGRICULTURE, BUREAU OF PLANT INDUSTRY

Chapter 3 - NEBRASKA COMMERCIAL FEED REGULATIONS

001 DEFINITIONS.

001.01 The definitions of terms contained in the Commercial Feed Act shall apply to such terms when used in this regulation.

001.02 The official feed terms, official and tentative definitions of feed ingredients, and statements for uniform interpretation and policy as established in the "2007 Official Publication of the Association of American Feed Control Officials Incorporated," which is hereby adopted by reference, shall apply when used in this regulation, unless the director determines that the health or safety of humans or livestock may be endangered thereby. Those portions of the uniform publication which are hereby adopted by reference shall be attached hereto and be made available upon request at the office of the bureau.

001.03 The following commodities are hereby declared exempt from the definition of commercial feed, under the provisions of section 54-849(2) of the act: raw meat, hay, straw, stover, silages, wet beet pulp, cobs, husks, and hulls when unground, not mixed or intermixed with other materials, and not adulterated within the meaning of section 54-854(1) of the act. Hay in cubed form shall also be exempt when not adulterated as set forth above and when not mixed or intermixed with any materials other than water.

001.04 Individual chemical compounds and substances not adulterated, intermixed, or mixed with other materials are hereby declared exempt from the definition of commercial feed under the provisions of section 54-849(2) of the act if these products meet the following criteria:

001.04A There is an adopted Association of American Feed Control Officials (hereafter referred to as AAFCO) definition for the product;

001.04B The product is either "Generally Recognized as Safe" (GRAS) or is not covered by a specific Food and Drug Administration (FDA) Regulation;

001.04C The product is either a naturally occurring product of relatively uniform chemical composition or is manufactured to meet the AAFCO definition of the product;

001.04D The use of the product in the feed industry constitutes a minor portion of its total industrial use;

001.04E The product contains small quantities of additives, which are intended to impart special desirable characteristics; or

001.04F There is no need or problem of control of this product.

001.05 OFFICIAL PUBLICATION shall mean the 2007 Official Publication of the Association of American Feed Control Officials Incorporated.

001.06 Wet beet pulp means wet or pressed beet pulp which is the residue from sugar beets which has been extracted in the process of manufacturing sugar and contains no less than 75% moisture.

002 LABELING OF COMMERCIAL FEED.

002.01 Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this regulation on the principal display panel of the product and in the following general format:

002.01A Net Weight.

002.01B Product name and brand name, if any, under which the commercial feed is distributed.

002.01C If a drug is used:

002.01C(1) The word "medicated" shall appear directly following and below the product name in type size no smaller than one-half the type size of the product name;

002.01C(2) The purpose of medication;

002.01C(3) An active drug ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with 25 NAC 3-004.04; and

002.01C(4) The required directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by 25 NAC 3-006 and 007, appear elsewhere on the label.

002.01D The guarantee analysis of the commercial feed as required under the provisions of section 54-852(1)(c) of the act include the following items, unless exempted in 002.01D9 of this part, and in the order listed:

002.01D(1) Minimum percentage of crude protein;

002.01D(2) Maximum or minimum percentage of equivalent protein from non-protein nitrogen as required in 25 NAC 3-004.05;

002.01D(3) Minimum percentage of crude fat;

002.01D(4) Maximum percentage of crude fiber;

002.01D(5) Minerals, to include, in the following order:

002.01D(5)(a) Minimum and maximum percentages of calcium (Ca),

002.01D(5)(b) Minimum percentages of phosphorus (P),

002.01D(5)(c) Minimum and maximum percentages of salt (NaCl), and

002.01D(5)(d) Other minerals;

002.01D(6) Vitamins in such terms as specified in 25 NAC 3-004.03.

002.01D(7) Total sugars as invert on dried molasses products or products being distributed primarily for their sugar content; and

002.01D(8) Viable lactic acid producing microorganisms for use in silages in terms specified in 25 NAC 3-004.07.

002.01D(9) Exemptions:

002.01D(9)(a) Guarantees for minerals are not required when there are no specific label claims and when the commercial feed contains less than 6½ percent of Calcium, Phosphorus, Sodium and Chloride;

002.01D(9)(b) Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement;

002.01D(9)(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 drug premixes, mineral or vitamin supplements, and molasses; or

002.01D(9)(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.

002.01E Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate ingredient statements as provided under the provisions of section 54-852(1)(d) of the act shall be labeled as follows:

002.01E(1) The name of each feed ingredient as defined in the official publication, common or usual name, or one approved by the director.

002.01E(2) Collective terms for the grouping of feed ingredients as defined in the official publication may be used on the label in lieu of the individual feed ingredients; except:

002.01E(2)(a) When a collective term for a group of feed ingredients is used on the label, individual feed ingredients within that group shall not be listed on the label; and

002.01E(2)(b) The manufacturer shall provide the director, upon request, with a list of individual feed ingredients, within a defined group, that are or have been used at manufacturing facilities distributing in or into the state.

002.01F Name and principal mailing address of the manufacturer or person responsible for distributing the commercial feed. The principal mailing address shall include the street address, city, state, and zip code; however, the street address may be omitted if it is shown in the current city directory or telephone directory.

002.01G The information required in section 54-852(1)(a) through (e) of the act shall appear in its entirety on one side of the label or on one side of the container. The information required by section 54-852(1)(f) and (g) of the act shall be displayed in a prominent place on the label or container but not necessarily on the same side as the above information. When the information required by section 54-852(1)(f) and (g) is placed on a different side of the label or container, it shall be referenced on the front side with a statement such as "See back of label for directions for use." None of the information required by section 54-852 of the act shall be subordinated or obscured by other statements or designs.

002.02 Customer-formula feed shall be accompanied with the information prescribed in this section using labels, invoice, delivery slip, or other shipping document bearing the following information:

002.02A The name and address of the manufacturer;

002.02B The name and address of the purchaser;

002.02C The date of manufacture;

002.02D The customer - formula feed name and brand name if any;

002.02E The product name and net weight of each registered commercial feed and each other feed ingredient used in the mixture;

002.02F The direction for use and precautionary statements as required by 25 NAC 3-006 and 007; and

002.02G If a drug containing product is used:

002.02G(1) The purpose of the medication, and

002.02G(2) The established name and level of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with 25 NAC 3-004.04.

002.02H A duplicate copy of all the information required in 002.02 above shall be kept by the manufacturer and made available for use by the department for sampling and inspection purposes.

003 BRAND AND PRODUCT NAMES.

003.01 The brand or product name shall be appropriate for the intended use of the commercial feed and shall not be misleading. If the name indicates the commercial feed is made for a specific use, the character of the commercial feed shall conform therewith. A mixture labeled "Dairy Feed," for example, shall be suitable for that purpose.

003.02 Commercial, registered brand or trade names are not permitted in guarantees or feed ingredient listings and only in the product name of commercial feed produced by or for the firm holding the rights to such a name.

003.03 The name of a commercial feed shall not be derived from one or more feed ingredients of a mixture to the exclusion of other feed ingredients and shall not be one representing any components of a mixture unless all components are included in the name; except, if any feed ingredient or combination of feed ingredients is intended to impart a distinctive characteristic to the product which is of significance to the purchaser,

the name of that feed ingredient or combination of feed ingredients may be used as a part of the brand name or product name if the feed ingredients or combination of feed ingredients is quantitatively guaranteed in the guaranteed analysis, and the brand or product name is not otherwise false or misleading.

003.04 The word "protein" shall not be permitted in the product name of a commercial feed that contains added non-protein nitrogen.

003.05 When the product name carries a percentage value, it shall be understood to signify only protein, equivalent protein content, or both, even though it may not explicitly modify the percentage with the word "protein;" except, that other percentage values may be permitted if they are followed by the proper description and conform to good labeling practice. Digital numbers shall not be used in such a manner as to be misleading or confusing to the consumer.

003.06 Single ingredient commercial feed shall have a product name in accordance with the designated definition of feed ingredients as recognized by AAFCO in its official publication unless the director determines that the health or safety of humans or livestock may be endangered thereby.

003.07 The word "vitamin," or a contraction thereof, or any word suggesting vitamin can be used only in the name of a commercial feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared, as specified in 25 NAC 3-004.03.

003.08 The term "mineralized" shall not be used in the name of a commercial feed except for "TRACE MINERALIZED SALT." When so used, the product shall contain significant amounts of trace minerals which are recognized as essential for animal nutrition.

003.09 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 cattle, swine, sheep or goats.

004 EXPRESSION OF GUARANTEES.

004.01 The guarantees for crude protein, equivalent protein from non-protein nitrogen, crude fat, crude fiber and mineral guarantees (when required) shall be in terms of percentage.

004.02 Commercial feed containing 6½ percent or more Calcium, Phosphorus, Sodium and Chloride shall include in the guaranteed analysis the minimum and maximum percentages of calcium (Ca), the minimum percentage of phosphorus (P), and if salt is added, the minimum and maximum percentage of salt (NaCl). Minerals, except salt (NaCl), shall be guaranteed in terms of percentage of the element. When calcium, salt guarantees, or both, are given in the guaranteed analysis, such shall be stated and conform to the following:

004.02A When the minimum is 5.0 percent or less, the maximum shall not exceed the minimum by more than one percentage point.

004.02B When the minimum is above 5.0 percent, the maximum shall not exceed the minimum by more than 20 percent and in no case shall the maximum exceed the minimum by more than 5 percentage points.

004.03 Guarantees for minimum vitamin content of commercial feeds shall be listed in the order specified and are stated in milligrams per pound unless otherwise specified:

004.03A Vitamin A, other than precursors of vitamin A, in International Units per pound;

004.03B Vitamin D-3 in products offered for poultry feeding, in International Chick Units per pound;

004.03C Vitamin D for other uses, International Units per pound;

004.03D Vitamin E, in International Units per pound;

004.03E Concentrated oils and feed additive premixes containing vitamins A, D, E or a combination thereof, may at the option of the distributor be stated in units per gram instead of units per pound;

004.03F Vitamin B-12, in milligrams per pound or micrograms per pound; and

004.03G All other vitamin guarantees shall express the vitamin activity in milligrams per pound in terms of the following: menadione; riboflavin; d-pantothenic acid; thiamine; niacin; vitamin B-6; folic acid, choline, biotin, inositol; p-amino benzoic acid; ascorbic acid; and carotene.

004.04 Guarantees for drugs shall be stated in terms of percent by weight, except:

004.04A Antibiotics, present at less than 2,000 grams per ton (total) of commercial feed shall be stated in grams per ton of commercial feed;

004.04B Antibiotics present at 2,000 or more grams per ton (total) of commercial feed, shall be stated in grams per pound of commercial feed;

004.04C Labels for commercial feed containing growth promotion levels of antibiotics, feed efficiency levels of antibiotics or both, which are to be fed continuously as the sole ration, are not required to make quantitative guarantees except as specifically noted in the Federal Food Additive Regulations for certain antibiotics, wherein, quantitative guarantees are required regardless of the level or purpose of the antibiotic; and

004.04D 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.

004.05 Commercial feed containing any added non-protein nitrogen shall be labeled as follows:

004.05A For ruminants:

004.05A(1) Complete feeds, supplements, and concentrates containing added non-protein nitrogen and containing more than 5 percent protein from natural sources shall be guaranteed as follows:

Crude Protein, minimum,_____%
(This includes not more than _____% equivalent protein from non-protein nitrogen.);

004.05A(2) Mixed feed concentrates and supplements containing less than 5 percent protein from natural sources may be guaranteed as follows:

Equivalent Crude Protein from Non-Protein Nitrogen, minimum, %; and

004.05A(3) Ingredient sources of non-protein nitrogen such as Urea, Di-Ammonium Phosphate, Ammonium Polyphosphate Solution, Ammoniated Rice Hulls, or other basic non-protein nitrogen ingredients defined in the official publication shall be guaranteed as follows:

Nitrogen, minimum,_____%
Equivalent Crude Protein from Non-Protein Nitrogen, minimum, %.

004.05B For non-ruminants:

004.05B(1) Complete feeds, supplements and concentrates containing crude protein from all forms of non-protein nitrogen, 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)] and

004.05B(2) Premixes, concentrates or supplements intended for non-ruminants containing more than 1.25 percent equivalent crude protein from all forms of non-protein nitrogen shall contain adequate directions for use and a prominent statement: WARNING: This feed shall be used only in accordance with directions furnished on the label.

004.06 Mineral phosphatic materials for feeding purposes shall be labeled with the guarantee for minimum and maximum percentage of calcium (when present), the minimum percentage of phosphorus, and the maximum percentage of fluorine.

004.07 Guarantees for microorganisms shall be stated in colony forming units per gram (CFU/g) when directions are for using the product in grams, or in colony forming units per pound (CFU/lb) when directions are for using the product in pounds. A parenthetical statement following the guarantee shall list each species in order of predominance; and

004.08 Labels of liquid commercial feed shall state the maximum moisture content in the guaranteed analysis statement.

005 FEED INGREDIENTS.

005.01 The name of each feed ingredient or collective term for the grouping of feed ingredients, when required to be listed, shall be the name as defined in the official publication, the common or usual name, or one approved by the director;

005.02 The name of each feed ingredient shall be shown in letters or type of the same size;

005.03 No reference to quality or grade of a feed ingredient shall appear in the ingredient statement of a commercial feed;

005.04 The term "dehydrated" may precede the name of any product that has been artificially dried;

005.05 A single ingredient product defined in the official publication is not required to have an ingredient statement;

005.06 Tentative definitions for feed ingredients shall not be used until adopted in the official publication, unless no official definition exists or the feed ingredient has a common accepted name that requires no definition, (i.e. sugar); and

005.07 When the word "iodized" is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.007 percent iodine, uniformly distributed.

006 DIRECTIONS FOR USE AND PRECAUTIONARY STATEMENTS.

006.01 Directions for use and precautionary statements on the labeling of all commercial feed and customer-formula feed containing additives (including drugs, special purpose additives, or non-nutritive additives) shall:

006.01A 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,

006.01B Include, but not be limited to, all information described by all applicable regulations under the Federal Food, Drug and Cosmetic Act.

006.02 Adequate directions for use and precautionary statements are required for commercial feed containing non-protein nitrogen as specified in 25 NAC 3-007.

006.03 Adequate directions for use and precautionary statements necessary for safe and effective use are required on commercial feed distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound.

007 USE AND LABELING OF COMMERCIAL FEED THAT CONTAIN NON-PROTEIN NITROGEN.

007.01 Urea and other non-protein nitrogen products defined in the official publication are acceptable feed ingredients only in commercial feed for ruminant animals as a source of equivalent crude protein. If the commercial feed contains more than 8.75 percent of equivalent crude protein from all forms of non-protein nitrogen or if the equivalent crude protein from all forms of non-protein nitrogen exceeds one-third of the total crude protein, the label shall bear adequate directions for the safe use of commercial feed and a precautionary statement: "CAUTION: USE AS DIRECTED." The directions for use and the caution statement shall be in type of such size so placed on the label that they shall be read and understood by ordinary persons under customary conditions of purchase and use.

007.02 Non-protein nitrogen defined in the official publication, when so indicated, are acceptable ingredients in commercial feed distributed to non-ruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from non-protein nitrogen sources when used in non-ruminant rations shall not exceed 1.25 percent of the total daily ration.

007.03 On labels such as those for medicated feeds which bear adequate feeding directions, warning statements, or both, the presence of added non-protein 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 non-protein nitrogen.

008 DRUG AND COMMERCIAL FEED ADDITIVES.

008.01 Prior to approval of a registration application or approval of a label for commercial feed which contain additives (including drugs, other special purpose additives, or non-nutritive additives) the distributor may be required to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label.

008.02 Satisfactory evidence of safety and efficacy of a commercial feed may be:

008.02A 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, or

008.02B When the commercial feed is itself a drug as defined in section 54-849(8) of the act and is generally recognized as safe and effective for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21 U.S.C. 360(b).

009 ADULTERANTS.

009.01 For the purpose of section 54-854(1)(a) of the act, the terms "poisonous or deleterious substances" include but are not limited to the following:

009.01A Fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds 0.20 percent for breeding and dairy cattle; 0.30 percent for slaughter cattle; 0.30 percent for sheep; 0.35 percent for lambs; 0.45 percent for swine; and 0.60 percent for poultry;

009.01B 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: 0.004 percent for breeding and dairy cattle; 0.009 percent for slaughter cattle; 0.006 percent for sheep; 0.01 percent for lambs; 0.015 percent for swine and 0.03 percent for poultry;

009.01C Fluorine bearing ingredients incorporated in any commercial feed that is fed directly to cattle, sheep or goats consuming roughage (with or without) limited amounts of grain, that results in a daily fluorine intake in excess of 50 milligrams of Fluorine per 100 pounds of body weight;

009.01D Soybean meal, flakes or pellets or other vegetable meals, flakes or pellets which have been extracted with trichlorethylene or other chlorinated solvents; and

009.01E Sulfur dioxide, Sulfurous acid, and salts of Sulfurous acid when used in or on commercial feed or feed ingredients which are considered or reported to be a significant source of vitamin B1 (Thiamine).

009.02 All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or distributed as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of such weed seeds so that the finished product contains no viable prohibited weed seeds and not more than 4.5 viable restricted weed seeds per pound.

010 GOOD MANUFACTURING PRACTICES.

010.01 For the purposes of enforcement of section 54-854(4) of the act the director adopts the following as current good manufacturing practices:

010.01A The regulations prescribing good manufacturing practices for medicated feeds as published in 21 C.F.R. 225.1 through 225.202; and

010.01B The regulations prescribing good manufacturing practices for medicated premixes as published in 21 C.F.R. 226.1 through 226.115.

011 INSPECTION FEES.

011.01 The rate of inspection fees on commercial feed distributed in Nebraska, as authorized by Neb. Rev. Stat. §54-856 shall be:

011.01A Until July 1, 2008, there shall be paid to the director an inspection fee at the rate of ten cents per ton on all commercial feed distributed in Nebraska which is not distributed in packages of ten pounds or less. On July 1, 2008, and thereafter, there shall be paid to the director an inspection fee at the rate of six cents per ton on all commercial feed distributed in Nebraska which is not distributed in packages of ten pounds or less.

011.01B In the case of a commercial feed which is distributed in the state only in packages of ten pounds or less, an annual fee of twenty-five dollars shall be paid in lieu of the inspection fee.

012 ADMINISTRATION. These regulations shall be administered by the Department of Agriculture's Bureau of Plant Industry, located in the State Office Building, fourth floor, 301 Centennial Mall South, Lincoln, Nebraska. The mailing address is P.O. Box 94756, Lincoln, Nebraska 68509-4756. The telephone number is (402) 471-2394.

013 PUBLICATION ADOPTED. See Appendix A.

014 ANNOTATION. Neb. Rev. Stat. §§54-847 to 54-863 (Reissue 2004).