



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia  
Secretary Of State

**NOTICE OF AN EMERGENCY RULE**

AGENCY: Agriculture TITLE-SERIES: 61-05  
RULE TYPE: Legislative Amendment to Existing Rule: Yes  
RULE NAME: Comercial Feed

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

§19-14-3

IF THE EMERGENCY RULE WAS PROMULGATED TO COMPLY WITH A TIME LIMIT ESTABLISHED BY CODE OR FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME LIMIT ESTABLISHED THEREIN:

With the passage of House Bill 2633 in the 2021 Legislative Session passed on April 6, 2021 and effective 90 days from passage §19-14

PRIMARY CONTACT:

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THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY THE SECRETARY OF STATE OR THE 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST. THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

DOES THIS EMERGENCY RULE REPEAL A CURRENT RULE? No

HAS THE SAME OR SIMILAR EMERGENCY RULE PREVIOUSLY BEEN FILED AND OR EXPIRED? No

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

At this time we do not have an accurate estimation

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

At this time we do not have an accurate estimation

C. ECONOMIC IMPACT ON THE STATE OR ITS RESIDENTS:

At this time we do not have an accurate estimation

D. FISCAL NOTE DETAIL:

| Effect of Proposal                 | Fiscal Year                            |  |  |
|------------------------------------|--|--|--|
|                                    | 2021<br>Increase/Decrease<br>(use "-") | 2022<br>Increase/Decrease<br>(use "-") | Fiscal Year (Upon<br>Full<br>Implementation) |
| <b>1. Estimated Total Cost</b>     | 0                                      | 0                                      | 0  |
| <b>Personal Services</b>           | 0                                      | 0                                      | 0  |
| <b>Current Expenses</b>            | 0                                      | 0                                      | 0  |
| <b>Repairs and Alterations</b>     | 0                                      | 0                                      | 0  |
| <b>Assets</b>                      | 0                                      | 0                                      | 0  |
| <b>Other</b>                       | 0                                      | 0                                      | 0  |
| <b>2. Estimated Total Revenues</b> | 0                                      | 0                                      | 0  |

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

At this time we do not have an accurate estimation

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

Yes

**Norman Bailey--By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**

TITLE 61  
LEGISLATIVE RULE  
DEPARTMENT OF AGRICULTURE

SERIES 5  
COMMERCIAL FEED

**§61-5-1. General.**

1.1. Scope. -- This rule establishes guidelines for permits and registrations, label format and good manufacturing practices for commercial feeds.

1.2. Authority. -- W. Va. Code §19-14-3.

1.3. Filing Date. -- ~~May 7, 2009.~~

1.4. Effective Date. -- ~~July 1, 2009.~~

1.5. ~~Repeal of former rule: This legislative rule repeals and replaces W. Va. §61CSR5 "West Virginia Commercial Feed Law Rules" filed June 24, 1993 and effective July 1, 1993. Sunset Date. – This rule shall expire, and have no further for or effect, ten years from the effective date.~~

**§61-5-2. Incorporation by Reference.**

2.1. The following documents are adopted in their entirety:

2.1.a. Except where otherwise provided, the terms and definitions adopted by the Association of American Feed Control Officials in the ~~2008~~ current edition of the annual Official Publication of the Association of American Feed Control Officials, Incorporated;

2.1.b. Official Pet Food Regulations as published in the ~~2008~~ current edition of the Official Publication of the Association of American Feed Control Officials, Incorporated;

2.1.c. ~~Title 21 Code of Federal Regulations Section 589.2000, Animal proteins prohibited in ruminant feed;~~ Title 21 Code of Federal Regulations Section 589.2001 Cattle materials prohibited in animal food or feed to prevent the transmission of bovine spongiform encephalopathy.

2.1.d. Federal Food, Drug, and Cosmetic Act (August 1985), Sections 360(b), 406, 408(a), 409, 501(a)(2)(B) and 501(a)(6), 504, 512(a)(2), 701, 704, 706, also known as 21 United States Code;

2.1.e. Title 21 Code of Federal Regulations, Parts 1.20-1.23, Subpart L (1.500-1.514, Subpart M (1.600-1.695), and Subpart O (1.900-1.934), 7.1-7.13, 7.40-7.59, 70.20-70.25, 73.1-73.615, 74.101-74.706, 81, 82.3-82.706, 225, 226, 500.23, 500.24, 500.29, 500.45, 500.50, 500.80-500.92, 501, 507, 509, 510, 558, 570, 573, 579, 582, 584, and 589 et seq. (April 1, 1990) adopted pursuant to the Federal Food, Drug, and Cosmetic Act (August 1985);

2.1.f. Title 40 Code of Federal Regulations Parts 185 and 186 et seq. (July 1, 1990) adopted pursuant to the Federal Food, Drug, and Cosmetic Act (August 1985); and

2.1.g. Federal Virus, Serum and Toxins Act of 1913 as amended December 23, 1985, also known as 21 United States Code 151- 159.

**§61-5-3. Definition and Terms.**

3.1. ~~(a)~~ “Electronic Announcements” means computer internet, telephone, facsimile, television and or radio advertisement sales.

3.2. “Unofficial Sample” is a sample that has not been collected by the commissioner via the agency's policy and procedures. These samples typically serve as information only and can help to determine or eliminate a suspected cause of adulteration, injury, or death.

**§61-5-4. Policy.**

4.1. All persons distributing or using commercial feed, including retailers, wholesalers, jobbers and brokers are equally responsible for full compliance with the provisions of W. Va. Code §19- 14-1 et seq. Any person who has in his or her possession any unlawful commercial feed is responsible for complying with the law, including registering the commercial feed, paying the tonnage fee, labeling the commercial feed and complying with any other legal requirement, if not met by another person.

4.2. The following persons shall also comply with all provisions of W. Va. Code §19-14-1 et seq. and this rule:

4.2.a. Each person who sells or intends to sell commercial feed directly to a purchaser located within this state via mail-order catalog or electronic announcements used in promoting the sale of feed;

4.2.b. Each person who travels out of this state to purchase commercial feed for distribution or resale within this state; and

4.2.c. Each person who contacts a final purchaser located within this state, either verbally or in writing, to sell commercial feed.

4.3. All human food, stale human food or garbage used as feed is subject to the registration, labeling and inspection fee provisions of W. Va. Code §19-14-5, 8 and 9 and are subject to the inspection, sampling and analysis provisions of W. Va. Code §19-14-3.

4.4. The commissioner shall not assess a tonnage fee on any commercial feed or feed ingredients used in the manufacture of poultry contract feed.

**§61-5-5. Permits; Registration.**

5.1. Commercial Feed ~~Manufacturer~~ Manufacturing Permit.

5.1.a. Each manufacturer of commercial feed, including customer-formula feed, within the state, subject to the provisions of W. Va. Code §19-14-5(c), shall complete a “Commercial Feed ~~Manufacturer~~ Manufacturing Permit” application with the following information: the corporate or company name; its location; the mailing address; the phone number; the manager’s name; the owner’s name; and any other information relevant to the manufacture of any commercial feed requested by the commissioner in order to carry out the provisions of W. Va. Code §19-14-1 et seq. or this rule. The manufacturer or his or her authorized representative shall sign and date the “Commercial Feed ~~Manufacturer~~ Manufacturing

Permit” application under sworn statement. The application shall be accompanied by the fee set forth in Appendix Number 1 – Fees of This Rule.

5.1.b. The commissioner shall not refund the application fee paid by a manufacturer or his or her authorized representative who cancels his or her Commercial Feed ~~Manufacturer~~ Manufacturing Permit.

5.1.c. The commissioner shall refund the application fee paid by a manufacturer/guarantor if the commissioner refuses the application for a Commercial Feed ~~Manufacturer~~ Manufacturing Permit.

5.1.d. The commissioner shall not refund the application fee paid by a manufacturer/guarantor when the commissioner has suspended or revoked the Commercial Feed ~~Manufacturer~~ Manufacturing Permit.

## 5.2. Commercial Feed Distributor Permit.

5.2.a. Each distributor subject to the provisions of W. Va. Code §19-14-5(d) shall complete a "Commercial Feed Distributor Permit" application with the following information: the corporate or company name; its locations; the mailing address; the phone number; the contact person; the owner’s name and any other information relevant to the distribution of any commercial feed requested by the commissioner in order to carry out the provisions of W. Va. Code §19-14-1 et seq. or this rule. The distributor or his or her authorized representative shall sign and date the "Commercial Feed Distributor Permit" application under sworn statement. The application shall be accompanied by the fee set forth in Appendix Number ~~2~~ 1 – Fees of this rule.

5.2.b. The commissioner shall not refund the application fee paid by a distributor or his or her authorized representative who cancels his or her "Commercial Feed Distributor Permit".

5.2.c. The commissioner shall refund the application fee paid by a distributor when the commissioner refuses the application for a "Commercial Feed Distributor Permit".

5.2.d. The commissioner shall not refund the application fee paid by a distributor when the commissioner has suspended or revoked the "Commercial Feed Distributor Permit".

## 5.3. Commercial Feed Guarantor Permit

5.3.a. Each person whose name appears on the label of commercial feed or customer-formula feed as the guarantor subject to the provisions of W. Va. Code §19-14-5(e), shall complete a “Commercial Feed Guarantor Permit” application for each manufacturing facility or location distributing feed in or into the state, except those persons that have obtained a “Commercial Feed Manufacturing Permit”, with the following information: the corporate or company name; its location; the mailing address; the phone number; the contact person; the owner’s name; and any other information relevant to the manufacture of any commercial feed requested by the commissioner in order to carry out the provisions of W. Va. Code §19-14-1 et seq. or this rule. The guarantor or his or her authorized representative shall sign and date the “Commercial Feed Guarantor Permit application under sworn statement. The application shall be accompanied by the fee set forth in Appendix Number 1 – Fees of This Rule.

5.3.b. The commissioner shall not refund the application fee paid by a guarantor or his or her authorized representative who cancels his or her “Commercial Feed Guarantor Permit”.

5.3.c. The commissioner shall refund the application fee paid by the guarantor when the commissioner refuses the application for “Commercial Feed Guarantor Permit”.

5.3.d. The commissioner shall not refund the application fee paid by the guarantor when the commissioner has suspended or revoked the “Commercial Feed Guarantor Permit”.

5.4. ~~Commercial Feed~~ Pet Food and/ or Specialty Pet Food Product Registration.

5.4.a. Each person registering a ~~commercial feed~~ Pet Food and/or Specialty Pet Food Product shall complete a ~~commercial feed~~ Pet Food and/or Specialty Pet Food Product Registration application with the following information: the corporate or company name; its location; the mailing address; the phone number; the contact person; the owner’s name; and the brand and product name of each feed to be registered. The commissioner may request additional information in order to carry out the provisions of W. Va. Code §19-14-1 et seq. or this rule. The application shall be accompanied by the fee set forth in Appendix Number ~~2~~ 1– Fees of This Rule. ~~Commercial feed, other than Pet Food and/ or Specialty Pet Food Products in packages over ten pounds or bulk shall be registered annually permanently. On January 1, the Commissioner shall assess an annual fee of \$10.00 per product to cover administrative costs. Labels are required annually for each pet food / specialty pet food product registered in West Virginia.~~

5.4.a.1. A label for each product ~~shall accompany listed on a commercial feed~~ the Pet Food and/or Specialty Pet Food Product Registration application shall accompany the application.

5.4.a.2. The ~~registrant guarantor~~ or his or her authorized representative shall sign and date the ~~Commercial Feed~~ Pet Food and/or Specialty Pet Food Product Registration application under sworn statement.

5.4.b. The commissioner shall not consider commercial feeds generally manufactured for and categorized for non-pet use (i.e., horses, pigs, sheep, goats, trout, duck and others) or for wild animal use (i.e., wild bird food) as pet food. The commissioner shall determine the category of other products as pet food or non-pet food on a case-by-case basis.

5.4.c. An individual ~~commercial feed~~ Pet Food and/or Specialty Pet Food Product registration is required for each pet food biscuit or rawhide chew manufactured in different sizes, such as small, medium, large, or a ~~commercial feed~~ Pet Food and/or Specialty Pet Food Product manufactured in different forms, such as pellets, crumbles or mash. The ~~registrant guarantor~~ shall provide labels for each product when applying for registration.

5.4.d. The commissioner shall not refund the application fee paid by a ~~registrant guarantor~~ or his or her authorized representative who cancels his or her ~~Commercial Feed~~ Pet Food and/ or Specialty Pet Food Product Registration in whole or in part.

5.4.e. The commissioner shall refund the application fee paid by a ~~registrant guarantor~~ when the commissioner refuses the application for a ~~Commercial Feed~~ Pet Food and/ or Specialty Pet Food Product Registration in whole or in part.

5.4.f. The commissioner shall not refund the application fee paid by a ~~registrant guarantor~~ when the commissioner has suspended or revoked the ~~Commercial Feed~~ Pet Food and/ or Specialty Pet Food Product Registration in whole or in part.

5.4.g. The ~~registrant guarantor~~ shall notify the commissioner when a product is discontinued or removed from distribution in this state. The ~~registrant guarantor~~ shall maintain registration for a product no longer distributed in this state for one additional registration period to allow for the sale or removal of the product on the shelves or the ~~registrant guarantor~~ shall immediately withdraw the product from

distribution. After that period, the commissioner may hold the registrant guarantor, the distributor or the person offering the product for sale responsible for complying with W. Va. Code §19-14-5(e) and this rule.

5.4.h. Prior to approval of a registration application or approval of a label for ~~commercial feed~~ Pet Food and/or Specialty Pet Food Products which contains additives (including drugs, other special purpose additives, or non-nutritive additives), the commissioner may require the registrant guarantor to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label.

5.4.i. If a pet food or specialty pet food requires minor label revisions to conform to labeling requirements, the commissioner shall register the product conditionally for the current registration period. However, if a label requires major revisions, the commissioner shall withhold the product from registration pending revision of the labeling. The commissioner shall offer an applicant adversely affected by the Commissioner's decision an opportunity for a hearing in this matter pursuant to W. Va. Code §19-14-7.

5.4.i.1. Minor revisions are those items that are necessary to conform to W. Va. Code §19-14-8, but, without correction, are not likely to cause the purchaser of the product to be misinformed, such as the guaranteed analysis being listed out of order.

5.4.i.2. Major revisions may include, but are not limited to, misleading and/or contradictory claims on the label, a misleading product name or other revisions that may mislead or misinform a purchaser.

5.4.j. When pet food or specialty pet food labels are changed by the manufacturer of its own accord, the registrant guarantor shall submit a new application for a revision to the registration. The commissioner shall waive the application fee for any label revision that involves a change in the net weight or a change in the list of ingredients.

5.4.k. The commissioner shall not require registration of any pet chew, bone, toy or exerciser (of any shape or size) made of rawhide, wood or man-made material, whether flavor-coated or unflavored, unless the registrant guarantor makes a claim on the product label or labeling that the product is intended for use as an animal food, or that the product provides anything of nutritional value to the animal.

~~5.3.k.1. The commissioner shall consider poultry contract feed to be customer formula feed.~~

5.5. The penalty set forth in Appendix Number ~~2~~ 1 – Fees Of This Rule shall be added to the fee for all permits or registrations that are not applied for or renewed within the time limit.

#### **§61-5-6. Tonnage Reports and Inspection Fees.**

6.1. Each person required in W. Va. Code §19-14-9(b)(a) to file semi-annual tonnage reports, shall file the reports accompanied by an inspection fee at the rate of thirty-five cents per ton on commercial feed and feed ingredients with a minimum inspection fee of ~~ten~~ twenty-five dollars for each semi-annual statement, whichever is greater. ~~The minimum fee is waived if the total amount of the calculated inspection fee due is two dollars or less.~~

6.2. Inspection fees due but not remitted to the commissioner within fifteen calendar days following the due date of each semi-annual tonnage report shall be assessed a penalty of ten percent of the inspection fee

due, in addition to the inspection fee due. ~~A semi-annual tonnage report with a minimum fee waived, received fifteen calendar days after the due date shall be assessed a penalty of one hundred dollars.~~

#### §61-5-7. Labeling.

7.1. The following information must appear in its entirety on one side of commercial feed labels, except customer-formula feeds, or on one side of the container of any commercial feed. Examples of labeling for a few animal classes are set forth in Appendices ~~4, 6, 8, 10 and 12~~ 3, 5, 7, 9, 11, and 14 of this rule.

7.1.a. ~~The net weight avoirdupois quantity statement. The net weight may also be stated in metric units;~~

7.1.b. The product name, including brand name, if any, under which the commercial feed is distributed;

7.1.b.1. ~~The registrant guarantor shall use a brand or product name that is appropriate for the intended use of the feed and that is not misleading. If the name indicates the feed is made for a specific use, the character of the feed shall conform with the specific use. A commercial feed for a particular animal class, must be suitable for that purpose.~~ A commercial feed labeled "Dairy Feed," for example, shall be suitable for that purpose.

7.1.b.2. ~~The registrant guarantor shall not use a commercial, registered brand or trade name in any guarantee or ingredient listings but may use a commercial, registered brand or trade name in the product name of feeds produced by or for the firm holding the rights to the name.~~

7.1.b.3. ~~The registrant guarantor shall not derive the name of a commercial feed from one or more ingredients of a mixture to the exclusion of other ingredients. The name of a commercial feed shall not be one representing any components of a mixture unless all components are included in the name: 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 ingredients or combination of ingredients is quantitatively guaranteed in the guaranteed analysis, and the brand or product name is not otherwise false or misleading.~~

7.1.b.4. ~~The registrant guarantor shall not use the word "protein" in the product name of a feed that contains added non-protein nitrogen.~~

7.1.b.5. 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": Provided, That the ~~registrant guarantor~~ may use other percentage values if they are followed by the proper description and conform to good labeling practice. In no case shall the ~~registrant guarantor~~ use numbers in the name of the product in a manner that is misleading or confusing to the customer.

7.1.b.6. ~~The registrant guarantor shall use a name for a single ingredient feed that is in accordance with the name of the product designated in the Official Names and Definition of Feed Ingredients, as incorporated by reference in section 2 of this rule, unless the commissioner allows otherwise.~~

7.1.b.7. ~~The registrant guarantor may use the word "vitamin," or a contraction thereof, or any word suggesting a vitamin 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 subsection 8.3 of this rule.

7.1.b.8. The ~~registrant~~ guarantor may not use the term "mineralized" in the name of a feed except for its use in the phrase "TRACE MINERALIZED SALT." When this phrase is used, the product must contain significant amounts of trace minerals which are recognized as essential for animal nutrition.

7.1.b.9. The ~~registrant~~ guarantor shall qualify the terms "meat" and "meat by-products" 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;

7.1.b.10. If the commercial 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 animal from which the raw milk is collected.)

7.1.c. The guaranteed analysis stating what the commissioner determines by rules is required to advise the user of the composition of the feed and any other necessary information to support claims made on the label. The substances or elements guaranteed shall be determinable by laboratory methods published by the association of official analytical chemists or by an acceptable method supplied by the ~~registrant~~ guarantor.

7.1.c.1. When a guarantee is stated, the nutritional guarantee shall be in the following sequence – Crude Protein, Equivalent Crude Protein from Non-Protein Nitrogen, Amino Acids, Crude Fat, Crude Fiber, Acid Detergent Fiber, Neutral Detergent Fiber, Calcium, Phosphorus, Salt and Sodium. Other required and voluntary guarantees should follow in a general format so 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. The required and voluntary guarantees for various animal classes or species are set forth in ~~Appendices 3, 5, 7, 9, 11, 13, 14, 15 and 2, 4, 6, 8, 10, 12, 13, 15, 16, 17, and 18~~ of this rule, in consideration of the following exemptions:

7.1.c.1.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:

7.1.c.1.A.1. 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

7.1.c.1.A.2. The feed or feed ingredient is intended for non-food producing animals and contains less than 6.5% total mineral.

7.1.c.1.B. Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement.

7.1.c.1.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.

7.1.c.1.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.

7.1.c.1.E. The indication for animal class(es) and species is not required on single ingredient products if the ingredient is not intended, represented, or defined for a specific animal class(es) or species;

7.1.d. An ingredient statement, except that an ingredient statement is not required for single standardized ingredient feeds or when the statement is not in the interest of consumers. An ingredient statement shall include:

7.1.d.1. The common or usual name of each ingredient as officially defined in the ~~annual~~current Official Publication of the Association of American Feed Control Officials;

7.1.d.2. Collective terms as defined in the annual Official Publication of the Association of American Feed Control Officials;

7.1.d.3. The common or usual name of substances generally recognized as safe (GRAS) as authorized by 21 Code of Federal Regulations 570.30 (~~April 1, 1990~~) revised April 1, 2019 of the Federal Drug and Cosmetic Act as amended August, 1985;

7.1.d.4. The common or usual name of substances which are so common that they do not need a definition, have a substantially safe history, and no safety hazard is known to exist after consumption by a significant number of animals, including, but not limited to, salt and sugar; and

7.1.d.5. Other ingredients or additives that the commissioner, by rules, determines necessary.

7.1.d.5.A. Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of W. Va. Code §19-14-8(b)(4) shall include:

7.1.d.5.A.1. The name of each ingredient as defined in the Official Publication of the Association of American Feed Control Officials, by its common or usual name, or one approved by the Commissioner; and

7.1.d.5.A.2. Collective terms for the grouping of feed ingredients as defined in the Official Definitions of Feed Ingredients published in the Official publication of the Association of American Feed Control Officials in lieu of the individual ingredients; Provided that:

7.1.d.5.A.2.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

7.1.d.5.A.2.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;

7.1.e. The name and principal mailing address of the manufacturer or the distributor;

7.1.f. Adequate directions and precautionary statements for safe and effective use; and

7.1.g. If a drug or drug containing product is used, the label shall contain the following:

7.1.g.1. The established name of each active drug ingredient;

7.1.g.2. The level of each drug used in the final mixture;

7.1.g.3. The purpose of the medication (claim statement);

7.1.g.4. Appropriate cautions and warnings on the use of the commercial feed;

7.1.g.5. Withdrawal statements, if applicable; and

7.1.g.6. The word "medicated" directly following and below the product name in type size no smaller than one-half the type size of the product name.

7.2. Pet food labels, excluding specialty pet foods, shall conform to the Official Pet Food Regulations, incorporated by reference in section 2 of this rule.

7.3. Specialty pet food labels shall conform to the requirements of W. Va. Code §19-14-8.

7.4. The ~~registrant~~ guarantor shall provide information to substantiate claims of improvement or newness (i.e., new, improved, introducing, better tasting, more taste than before) when required by the commissioner. The ~~registrant~~ guarantor shall limit the use of these claims to six months' production of the feed and shall submit a revised label within six months of original registration. The commissioner shall not require an additional application fee for the submission of a revised label under these circumstances during the current registration period.

7.5. If a manufacturer or distributor sells customer-formula feed in bags, rather than unpackaged feed (bulk), then he or she is not required to label each bag, Provided that an invoice, which supplies all the information required by W. Va. Code §19-14-8(d), accompanies the customer-formula feed at all times that the feed is distributed.

7.6. Poultry contract feed labels shall conform to the requirements of W. Va. Code §19-14-8d, except that:

7.6.a. the name of the grower or feeder shall substitute for the requirements for the name of the purchaser; and,

7.6.b. the net weight (avoirdupois) of the commercial feed and each feed ingredient used in the feed are not required to be listed.

7.7. A Purpose Statement shall be included as part of the label;

7.7.a. The statement of purpose shall contain the specific species and animal classes for which the feed is intended as defined in Subparagraph ~~7.1.a.3.A~~ 7.1.c.1 of this rule.

7.7.b. The manufacturer has 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 Subparagraph ~~7.1.a.3.A~~ 7.1.c.1 of this rule which may include, but is not limited to weight ranges, sex, or ages of the animals for which the feed is manufactured.

7.7.c. The purpose statement may be excluded from the label if the product name includes a description of the species and animal classes for which the product is intended.

7.7.d. 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 the nutrients contained in the premix are guaranteed and sufficient for formulation into various animal species feeds and premix specifications are provided by the end user of the premix. This applies to commercial feeds regulated under Appendix ~~12.b.10~~ 18.b.10 of this rule.

7.7.e. 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. This applies to commercial feeds regulated under Appendix ~~12~~ 18.b.10 of this rule.

7.7.f. The purpose statement of a product shall include a statement of enzyme functionality if enzymatic activity is represented in any manner.

7.7.g. 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.

7.8. The ~~registrant~~ guarantor shall not subordinate or obscure the information required by this section by other statements or designs.

#### **§61-5-8. Expression of Guarantees.**

8.1. The ~~guarantee~~ guarantees for crude protein, equivalent crude protein from non-protein nitrogen, lysine, methionine, other amino acids, crude fat, crude fiber and ~~acid detergent~~ other fiber indicators shall be in terms of percentage.

8.2. Mineral Guarantees shall be included as part of the label;

8.2.a. When calcium, salt, and sodium guarantees are given in the guaranteed analysis they shall be stated and conform to the following:

8.2.a.1. When the minimum is below 2.5%, the maximum shall not exceed the minimum by more than 0.5 percentage point;

8.2.a.2. When the minimum is 2.5 % but less than 5.0%, the maximum shall not exceed the minimum by more than one percentage point; and

8.2.a.3. When the minimum is above 5.0% or greater the maximum shall not exceed the minimum by more than 20% of the minimum and in no case shall the maximum exceed the minimum by more than five percentage points.

8.2.b. When stated, guarantees for minimum and maximum total sodium and salt, minimum potassium, magnesium, sulfur, phosphorus and maximum fluorine shall be in terms of percentage. Other

minimum mineral guarantees shall be stated in parts per million (ppm) when the concentration is less than 10,000 ppm and in percentage when the concentration is 10,000 ppm (1%) or greater.

8.2.c. 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.

8.3.a. Guarantees for minimum vitamin content of commercial feeds shall be listed in the order specified and shall be stated in mg/lb or in units consistent with those employed for the quantity statement unless otherwise specified:

~~8.3.a.1.~~ 8.3.a. Vitamin A, other than precursors of vitamin A, in International Units per pound;

~~8.3.a.2.~~ 8.3.b. Vitamins D-3 in products offered for poultry feeding, in International Chick units per pound;

~~8.3.a.3.~~ 8.3.c. Vitamin D for other uses, in International Units per pound;

~~8.3.a.4.~~ 8.3.d. Vitamin E, in International Units per pound;

~~8.3.a.5.~~ 8.3.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; and

~~8.3.a.6.~~ 8.3.f. Vitamin B-12, in milligrams or micrograms per pound.

~~8.3.b.7.~~ 8.3.g. 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.

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

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

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

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

8.4.c. 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 specially noted in the Federal Food Additive regulations for certain antibiotics, for which quantitative guarantees are required regardless of the level or purpose of the antibiotic; and

8.4.d. 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.

8.5. Commercial feeds containing any added non-protein nitrogen shall be labeled as follows:

8.5.a. For ruminants:

8.5.a.1. Complete feeds, supplements, and concentrates containing added non-protein nitrogen and containing more than 5 % protein from natural sources shall be guaranteed as follows:

Crude Protein, minimum, \_\_\_\_\_%  
(This includes not more than \_\_\_\_\_% equivalent crude protein from non-protein nitrogen).

8.5.a.2. Mixed feed concentrates and supplements containing less than 5 % protein from natural sources may be guaranteed as follows:

Equivalent Crude Protein from Non-Protein Nitrogen, minimum, \_\_\_\_\_%

8.5.a.3. Ingredient sources of non-protein such as Urea, Diammonium Phosphate, Ammonium Polyphosphate Solution, Ammoniated Rice Hulls, or other basic non-protein nitrogen ingredients defined by the Association of American Feed Control Officials shall be guaranteed as follows:

Nitrogen, minimum, \_\_\_\_\_%  
Equivalent Crude Protein from Non-Protein Nitrogen, minimum, \_\_\_\_\_%

8.5.b. For non-ruminants:

8.5.b.1. Complete feeds, supplements and concentrates containing crude protein from all forms of non-protein 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).

8.5.b.2. Premixes, concentrates or supplements intended for non-ruminants containing more than 1.25% equivalent crude protein from all forms of non-protein 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.

8.6. 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.

8.7. 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, or CFU per product unit (e.g., tablets, capsules, liquids) consistent with directions for use and the quantity statement. A parenthetical statement following the guarantee shall list each species in order of predominance.

8.8. Guarantee for enzymes shall be stated in units of enzymatic activity per unit weight or volume, consistent with label directions, or Units of enzymatic activity per product unit (e.g., tablets, capsules) consistent with the directions for use and the quantity statement. The source organism for each type of enzymatic activity shall be specified, such as : Protease (Bacillus subtilis) 5.5 mg amino acids

liberated/min./milligram. If two 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.

8.9. Guarantees for dietary starch, sugars, and fructans for Commercial Feeds, other than customer-formula feed, Pet Food, and Specialty Pet Food Products:

8.9.a. 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:

8.9.a.1. Guarantees for maximum percentage of dietary starch and maximum percentage sugars, in the Guaranteed Analysis section immediately following the last fiber guarantee.

8.9.a.2. A maximum percentage guarantee for fructans immediately following sugars, if the feed contains forage products.

8.9.b. 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.

**§61-5-9. Substantiation of Nutritional Suitability.**

9.1. A commercial feed, other than a customer-formula feed, shall be nutritionally suitable for its intended purpose as represented by its labeling.

9.2. If the commissioner has reasonable cause to believe a commercial feed is not nutritionally suitable, the commissioner may request the feed manufacturer to either submit an “Affidavit of Suitability” or an alternative procedure acceptable to the commissioner, certifying the nutritional adequacy of the feed. The Affidavit of Suitability or alternative procedure of suitability shall serve as substantiation of the suitability of the feed.

9.3. If an Affidavit of Suitability, or alternative procedure acceptable to the commissioner is not submitted by the feed manufacturer within 30 days of written notification, the commissioner may consider the feed adulterated under W. Va. Code §19-14-10~~(b)~~ and order the feed removed from the marketplace.

9.4. The Affidavit of Suitability shall contain the following information:

9.4.a. The feed company’s name;

9.4.b. The feed’s product name;

9.4.c. The name and title of the affiant submitting the document;

9.4.d. A statement that the affiant has knowledge of the nutritional content of the feed and based on valid scientific evidence the feed is nutritionally adequate for its intended purpose;

9.4.e. The date of submission; and

9.4.f. The signature of the affiant notarized by a certified Notary Public.

9.5. An acceptable example of the Affidavit of Suitability is set forth in Appendix Number ~~43~~ 19 of this rule.

**§61-5-10. Ingredients.**

10.1. The name of each ingredient or collective term for the grouping of ingredients, when required to be listed, shall be the name as defined in the Official Definitions of Feed Ingredients as published in the Official Publication of the Association of American Feed Control Officials, the common or usual name, or one approved by the commissioner.

10.2. The name of each ingredient shall be shown in letters or type of the same size.

10.3. No reference to quality or grade of an ingredient shall appear in the ingredient statement of a feed.

10.4. The term “dehydrated” may precede the name of any product that has been artificially dried.

10.5. A single ingredient product defined by the Association of American Feed Control Officials is not required to have an ingredient statement.

10.6. Tentative definitions for ingredients shall not be used until adopted as official in the Official Publication of the Association of American Feed Control Officials, Incorporated, unless no official definition exists or the ingredient has a common accepted name that requires no definition, (i.e.sugar).

10.7. When the word “iodized” is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.007% iodine, uniformly distributed.

10.8. Each carrier shall be listed in the ingredient statement on the label unless it meets the criteria for an incidental ingredient, as that term is defined in 21 CFR 501.100(a)(3).

**§61-5-11. Directions for Use and Precautionary Statements.**

11.1. 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 non-nutritive additives) shall:

11.1.a. 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,

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

11.2. Adequate directions for use and precautionary statements are required for feeds containing non-protein as specified in section 12 of this rule.

11.3. Adequate directions for safe 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 vitamin, mineral, or other dietary nutrient or compound.

11.4 Raw milk distributed as a commercial feed shall bear the following statement: “WARNING; NOT FOR HUMAN CONSUMPTION- THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY NOT 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 table:

| <u>Panel Size</u><br><u>Statement Type Size</u> | <u>Minimum Warning</u> |
|---|------------------------|
| <u>&lt; 5 in.<sup>2</sup></u>                   | <u>1/16 in.</u>        |
| <u>&gt;-25 in.<sup>2</sup></u>                  | <u>1/8 in.</u>         |
| <u>&gt; 25-100 in.<sup>2</sup></u>              | <u>3/16 in.</u>        |
| <u>&gt;100&lt;400 in.<sup>2</sup></u>           | <u>¼ in.</u>           |
| <u>&gt;400 in.<sup>2</sup></u>                  | <u>½ in.</u>           |

#### §61-5-12. Non-Protein Nitrogen.

12.1. Urea and other non-protein nitrogen products defined in the Official Publication of the Association of American Feed Control Officials are acceptable ingredients only in commercial feeds for ruminant animals as a source of equivalent crude protein. If the commercial feed contains more than 8.75% of equivalent crude protein from all forms of non-protein nitrogen, added as such, or if the equivalent crude protein from all forms of non-protein nitrogen, added as such, exceeds one third of the total crude protein, the label shall bear adequate directions for the safe use of feeds and a precautionary statement: "CAUTION: USE AS DIRECTED." The directions for use and the precautionary statement shall be in type of such size so placed on the label that they will be read and understood by an ordinary person under customary conditions of purchase and use.

12.2. Non-protein nitrogen defined in the Official Publication of the Association of American Feed Control Officials, when indicated, are acceptable ingredients in commercial feeds 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% of the total daily ration.

12.3. On labels, such as those for medicated feeds which bear adequate feeding directions and/or warning statements, 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 the product due to the presence of non-protein nitrogen.

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

#### §61-5-13. Drug and Feed Additives.

13.1. The Commissioner may require a distributor to submit evidence to prove the safety and efficacy of a commercial feed when used according to the directions furnished on the label, before granting approval of a registration application and/or approval of a label for commercial feed which contain additives (including drugs, other special purpose additives, or non-nutritive additives).

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

13.2.a. When the commercial feed contains 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 that use;

13.2.b. When the commercial feed is itself a drug defined in W. Va. Code §19-14-2(j) 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;

13.2.c. 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 Toxin Act of 1913, as amended;

13.2.d. When the commercial feed is a direct fed microbial product and:

13.2.d.1. The product meets the particular fermentation product definition;

13.2.d.2. The microbial content statement, as expressed in the labeling, is limited to the following: “Contains a source of live (viable) naturally occurring microorganisms.” This statement shall appear on the label; and

13.2.d.3. The source is stated with a corresponding guarantee expressed in accordance with subsection 8.7 of this rule; and

13.2.e. When the commercial feed is an enzyme product and;

13.2.e.1. The product meets the particular enzyme definition defined by the Association of American Feed Control Officials; and

13.2.e.2. The enzyme is stated with a corresponding guarantee expressed in accordance with subsection 8.8 of this rule.

#### **§61-5-14. Adulteration.**

14.1. A commercial feed is adulterated:

14.1.a. If it bears or contains any poisonous or deleterious substance which may render it injurious to animal or human health; but in the case where the substance is not an added substance, the commercial feed is not considered adulterated under this subsection if the quantity of the substance in the commercial feed does not ordinarily render it injurious to health;

14.1.b. For the purpose of W. Va. Code §19-14-10(a), the terms “poisonous” or “deleterious” substances include but are not limited to the following:

14.1.b.1. Fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and which the fluorine exceeds 0.20% for breeding and dairy cattle; 0.30% for slaughter cattle; 0.30% for sheep; 0.35% for lambs; 0.45% for swine; and 0.60% for poultry;

14.1.b.2. 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% for breeding

and dairy cattle; 0.009% for slaughter cattle; 0.006% for sheep; 0.01% for lambs; 0.015% for swine and 0.03% for poultry;

14.1.b.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 50 milligrams of Fluorine per 100 pounds of body weight;

14.1.b.4. Soybean meal, flakes or pellets or other vegetable meals, flakes or pellets which have been extracted with trichlorethylene or other chlorinated solvents;

14.1.b.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);

14.1.b.6. Raw leather residue from tanning or leather manufacturing.

14.1.c. If it contains any viable weed seeds in screenings or by-products of grains and seeds containing weed seeds when the product is used in commercial feed or sold as a single ingredient feed. Products containing viable weed seed shall be ground fine enough or otherwise treated to destroy the viability of weed seeds prior to distribution.; or

14.1.d. If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practices to assure the drug meets the requirements of W. Va. Code §19-14-10 and of this section as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess.

14.2. Tolerances for pesticide residues in commercial feed are those specified in 40 CFR Parts 185 and 186, as incorporated by reference in section 2 of this rule.

**§61-5-15. Laboratory Services.**

15.1. The commissioner shall make available laboratory facilities for the analysis of feed, hay, grass or silage samples for interested persons on a non-official basis.

15.2. Charges for non-official tests are set forth ~~in Appendix 1 of this rule~~ by the commissioner.

15.3. The commissioner shall not charge a person for an official sample taken by the commissioner in the course of carrying out the powers and duties under W. Va. Code §19-14-3 of this rule.

**§61-5-16. Powers and Duties of the Commissioner.**

16.1. When sample collection by the commissioner destroys the salability of the product (for example, when an entire package must be collected for analysis), the commissioner shall offer to pay the retailer an amount not more than the wholesale cost of that product to that retailer.

**§61-5-17. Enforcement Policy.**

17.1. First Notice -- If a commercial feed sample does not conform to W. Va. Code §19-14-1 et seq. or this rule, the commissioner shall issue a first notice to the registrant of the commercial feed. ~~The~~

~~commissioner shall issue an embargo order for the lot of commercial feed to the custodian of the lot sampled. The commissioner shall take an additional sample from a different lot.~~

17.2. Second Notice -- If a commercial feed sample does not conform to W. Va. Code §19-14-1 et seq. or this rule, subsequent to the assessment of a first notice, the commissioner shall issue a second notice to the registrant of the commercial feed. ~~The commissioner shall also issue an embargo order for the lot of commercial feed to the custodian of the lot sampled. The commissioner shall take an additional sample from a different lot.~~

17.3. Third Notice -- If a commercial feed sample does not conform to W. Va. Code §19-14-1 et seq. or this rule, subsequent to the assessment of a second notice, the commissioner shall issue a third notice to the registrant of the commercial feed. The commissioner shall also issue a general embargo order to the registrant that shall require him or her to remove all lots of that commercial feed from sale and distribution within the state until the embargo is released.

17.4. If a resample indicates that the commercial feed is in compliance with W. Va. Code §19-14-1 et seq. and this rule, then the Commissioner shall cancel all previous notices of violations for that commercial feed.

17.5. The commissioner may take other action as considered necessary in order to carry out the provisions of W. Va. Code §19-14-1 et seq. and this rule.

#### **§61-5-18. Good Manufacturing Practices.**

18.1. For the purposes of enforcement of W. Va. Code §19-14-10 and of section 14 of this rule, the commissioner adopts the following regulations as current good manufacturing practices:

18.1.a. The regulations prescribing good manufacturing practices for Type B and Type C medicated feeds as published in the Code of Federal Regulations, Title 21, Part 225, Sections 225.1-225.202; and

18.1.b. The regulations prescribing good manufacturing practices for Type A Medicated Articles as published in the Code of Federal Regulations, Title, 21, Part 226, Sections 226.1-226.115.

18.1.c. The re-use of bags or totes used for commercial feeds (including customer-formula feed) is permitted if bags or totes are appropriately cleaned, as approved by the WVDA, so that the re-use of the bags or totes shall not cause adulteration of the feed. A feed manufacturer that intends to re-use bags or totes shall document its cleanout procedures.

#### **§61-5-19. Certain Mammalian Proteins Prohibited in Ruminant Feed.**

19.1. Pursuant to W. Va. Code §19-14-10(a), the commissioner adopts the requirements of Title 21, Code of Federal Regulations, 589.20001

#### **61-5-20. Penalties for Violative Samples**

20.1 A penalty shall be assessed each time a lot of commercial feed is found to be violative.

20.2 The amount of the penalty for each violation shall be 10% of the retail value of the lot of commercial feed.

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20.3 The minimum penalty under any of the foregoing provisions shall be twenty-five dollars (\$25.00).

20.4 Violative Penalty fees due but not remitted to the commissioner within fifteen calendar days following the due date shall be assessed a late penalty of ten percent of the violative penalty fee in addition to the original penalty fee.

**APPENDIX NUMBER 1**  
Charges for tests on non-official samples

|                                    |                               |
|------------------------------------|-------------------------------|
| <del>Aflatoxin (screen test)</del> | <del>\$25.00 per sample</del> |
| Ash                                | \$7.80 per sample             |
| Calcium                            | \$8.40 per sample             |
| Crude fat                          | \$7.80 per sample             |
| Crude fiber                        | \$12.60 per sample            |
| Magnesium                          | \$10.80 per sample            |
| Moisture—oven                      | \$7.80 per sample             |
| Phosphorus                         | \$12.60 per sample            |
| Protein—Kjeldahl                   | \$7.80 per sample             |
| Total Digestible Nutrients         | \$49.80 per sample            |

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| APPENDIX NUMBER 21<br>FEES OF THIS RULE  |                   |  |  |
|--|-------------------|--|--|
| TYPE OF FEE  | SECTION REFERENCE | FEE  | REGISTRATION   |
| Commercial Feed Manufacturering Permit   | <del>5.1.4</del>  | <del>\$15.00</del><br><del>\$50.00</del>   | ANNUAL RENEWAL – Expires December 31 next, following issue   |
| Commercial Feed Distributor Permit   | <del>5.2.4</del>  | <del>\$10.00</del><br><del>\$30.00</del>   | ANNUAL RENEWAL – Expires December 31 next, following issue   |
| <u>Commercial Feed Guarantor Permit</u>  | <u>5.3.4</u>      | <u>\$500.00</u>  | <u>ANNUAL RENEWEL – Expires December 31 next, following issue</u>  |
| <del>Registration – Commercial feed, other than pet food, in packages over 10 pounds or bulk.</del>  | <del>5.3.4</del>  | <del>\$10.00</del>   | <del>REGISTERED ANNUALLY Expires December 31 next, following issue. Fee is per each product.</del>   |
| Registration - Pet food, <del>including specialty pet foods</del> , in packages over ten pounds or bulk.   | <u>5.3.14</u>     | \$50.00<br>+<br><u>\$50.00</u><br><u>Spay</u><br><u>Neuter</u><br><u>Total</u><br><u>\$100</u>   | REGISTERED ANNUALLY Expires August 31 next, following issue. Fee is per each product. \$50.00 will be added for the WV Spay Neuter Assistance Fund until June 30, 2027.  |
| Registration - <del>Commercial feed (excluding specialty p</del> Pet food in packages of one pound or less) in packages of ten pounds and under. | <u>5.3.14</u>     | \$40.00<br>+<br><u>\$35.00</u><br><u>Spay</u><br><u>Neuter</u><br><u>Total</u><br><u>\$75.00</u> | REGISTERED ANNUALLY Expires December 31 next, following issue. Fee is per each product. \$35.00 will be added for the WV Spay Neuter Assistance Fund until June 30, 2027 |
| Registration - Specialty pet food <del>in packages of one pound or less.</del>   | <u>5.3.14</u>     | <del>\$20.00</del><br><u>\$40.00</u>   | REGISTERED ANNUALLY Expires December 31 next, following issue. Fee is per each product.  |
| Late Penalty   | <u>5.4.5</u>      | \$100.00   | Added to the fee for all permits or registrations that are not applied for or renewed within the time limit.   |
| <u>Tonnage Fees</u>  | <u>6.1</u>        | <u>\$25.00 or \$0.35/ton whichever is greater</u>  | <u>Each person required in W.Va. Code §19-14-9 (c) to file semi-annual tonnage reports</u>   |
| <u>Inspection Fees Late Penalty</u>  | <u>6.2</u>        | <u>10% of inspection fee due</u>   | <u>Inspection fees due but not remitted to the commissioner within fifteen calendar days following the due date of each semi-annual tonnage report</u>                   |

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|  |  |  |   |
|--|--|--|---|
| <p><u>Violative Penalty on Samples</u></p>           | <p><u>20.2</u><br/>&amp;<br/><u>20.3</u></p> | <p><u>10% of retail value of the lot or \$25 whichever is larger</u></p> | <p><u>The amount of the penalty for each violation shall be 10% of the retail value of the lot of commercial feed. The minimum penalty under any of the foregoing provisions shall be twenty-five dollars (\$25.00).</u></p>                            |
| <p><u>Late Penalty on Violative Penalty Fees</u></p> | <p><u>20.4</u></p>                           | <p><u>10% of penalty due</u></p>   | <p><u>Violative Penalty fees due but not remitted to the commissioner within fifteen calendar days following the due date shall be assessed a late penalty of ten percent of the violative penalty fee in addition to the original penalty fee.</u></p> |

Appendix Number ~~3~~2  
 Required guarantees for swine formula feeds

- a. Animal Classes
- (1) Pre-Starter – 2 to 11 pounds
  - (2) Starter – 11 to 44 pounds
  - (3) Grower – 44 to 110 pounds
  - (4) Finisher – 110 to ~~242 pounds (market)~~ to market weight
  - (5) Gilts, Sows and Adult Boars
  - (6) Lactating Gilts and Sows
- b. Guaranteed Analysis for Swine Complete Feeds and Supplements (all animal classes)
- (1) Minimum percentage of Crude Protein
  - (2) Minimum percentage of Lysine
  - (3) Minimum percentage of Crude Fat
  - (4) Maximum percentage of Crude Fiber
  - (5) Minimum and maximum percentage of Calcium
  - (6) Minimum percentage of Phosphorus
  - (7) Minimum and maximum percentage of Salt (if added)
  - (8) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
  - (9) Minimum Selenium in parts per million (ppm)
  - ~~(10) Minimum Zinc in parts per million (ppm)~~

Appendix Number 43  
Swine Complete and Supplement Feeds (Non-Medicated and Medicated)

**BLUE BIRD SUPER PIG FEED**

For Starter Pigs Weighing 11 to 44 Pounds

**Guaranteed Analysis**

|                          |         |
|--------------------------|---------|
| Crude Protein (Min)..... | 20.0%   |
| Lysine (Min).....        | 1.2%    |
| Crude Fat (Min).....     | 4.0%    |
| Crude Fiber (Max).....   | 4.0%    |
| Calcium (Min).....       | 0.8%    |
| Calcium (Max).....       | 1.3%    |
| Phosphorus (Min).....    | 0.65%   |
| Salt (Min).....          | 0.35%   |
| Salt (Max).....          | 0.5%    |
| Selenium (Min).....      | 0.3 ppm |
| Zinc (Min).....          | 150 ppm |

**Ingredient Statement**

Grain Products, Plant Protein Products, Processed Grain By-Products, Dried Whey, Calcium Lignin Sulfonate, Animal Fat, Vitamin A Supplement, D-Activated Animal Sterol (source of Vitamin D), L-Lysine, Riboflavin Supplement, Choline Chloride, Biotin, Thiamine Mononitrate, Pyridoxine Hydrochloride, Vitamin E Supplement, Menadione Sodium Bisulfite Complex (source of Vitamin K Activity), Folic Acid, Ethoxyquin (a preservative), Ground Limestone, Dicalcium Phosphate, Salt, Copper Sulfate, Manganous Oxide, Zinc Oxide, Iron Sulfate, Cobalt Carbonate, Calcium Iodate, Sodium Selenite.

**Feeding Directions:**  
Feed as the complete ration to starter pigs weighing 11 to 44 pounds.

Manufactured By:  
Blue Bird Feed Mill  
City, State, Zip

NET WT 50 LB (22.67 kg)

**BLUE BIRD SUPER PIG FEED**

**MEDICATED**

For Starter Pigs Weighing 11 to 44 Pounds.

Administer to swine in a complete feed for reduction of the incidence of cervical abscesses; treatment of bacterial enteritis (salmonellosis or necrotic enteritis caused by salmonella choleraesuis and vibronic dysentery); maintenance of weight gains in the presence of atrophic rhinitis; increased rate of weight gain and improved feed efficiency up to six weeks post-weaning.

**Active Drug Ingredients**

|  |         |
|--|---------|
| Chlortetracycline.....                     | 100 G/T |
| Sulfathiazole.....                         | 0.011%  |
| Penicillin (from Procaine Penicillin)..... | 50 G/T  |

**Guaranteed Analysis**

|                          |         |
|--------------------------|---------|
| Crude Protein (Min)..... | 20.0%   |
| Lysine (Min).....        | 1.2%    |
| Crude Fat (Min).....     | 4.0%    |
| Crude Fiber (Max).....   | 4.0%    |
| Calcium (Min).....       | 0.8%    |
| Calcium (Max).....       | 1.3%    |
| Phosphorus (Min).....    | 0.65%   |
| Salt (Min).....          | 0.35%   |
| Salt (Max).....          | 0.5%    |
| Selenium (Min).....      | 0.3 ppm |
| Zinc (Min).....          | 150 ppm |

**Ingredient Statement**

Grain Products, Plant Protein Products, Processed Grain By-Products, Dried Whey, Calcium Lignin Sulfonate, Animal Fat, Vitamin A Supplement, D-Activated Animal Sterol (source of Vitamin D), L-Lysine, Riboflavin Supplement, Choline Chloride, Biotin, Thiamine Mononitrate, Pyridoxine Hydrochloride, Vitamin E Supplement, Menadione Sodium Bisulfite Complex (source of Vitamin K Activity), Folic Acid, Ethoxyquin (a preservative), Ground Limestone, Dicalcium Phosphate, Salt, Copper Sulfate, Manganous Oxide, Zinc Oxide, Iron Sulfate, Cobalt Carbonate, Calcium Iodate, Sodium Selenite.

**Feeding Directions:**  
Feed as the complete ration to starter pigs weighing 11 to 44 pounds.  
Warning: Withdraw 7 days prior to slaughter.

Manufactured By:  
Blue Bird Feed Mill  
City, State, Zip

NET WT 50 LB (22.67 kg)

Appendix Number 54  
Required guarantees for Formula Poultry Feeds (Broilers, Layers and Turkeys)

## (a) Animal Classes

(1) Layer – Chickens that are grown to Produce eggs for food, e.g. , table eggs

(a) Starting/Growing – From day of hatch to approximately 10 weeks of age.

(b) Finisher – From approximately 10 weeks of age to time first egg is produced.  
(Approximately 20 weeks of age)

(c) Laying – From time first egg is laid throughout the time of egg production.

(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.

(2) Broilers – Chickens that are grown for human food.

(a) Starting/growing – From day of hatch to approximately 5 weeks of age.

(b) Finisher – From approximately 5 weeks of age to market, (42 to 52 days).

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

(3) Broilers, Breeders – Chickens whose offspring are grown for human food (broilers).

(a) Starting/Growing – From day of hatch until approximately 10 weeks of age.

(b) Finishing – From approximately 10 weeks of age to time first egg is produced, approximately 20 weeks of age.

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

(4) Turkeys

(a) Starting/Growing – Turkeys that are grown for human food from day of hatch to approximately 13 weeks of age (females) and 16 weeks of age (males).

(b) Finisher – Turkeys that are grown for human food, females from approximately 13 weeks of age to approximately 17 weeks of age; males from 16 weeks of age to 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 30 weeks of age), both sexes.

## (b) Guaranteed Analysis for Poultry Complete feeds and Supplements (all animal classes)

(1) Minimum percentage of Crude Protein

(2) Minimum percentage of Lysine

(3) Minimum percentage of Methionine

(4) Minimum percentage of Crude Fat

(5) Maximum percentage of Crude Fiber

(6) Minimum and maximum percentage of Calcium

(7) Minimum percentage of Phosphorus

(8) Minimum and maximum percentage of Salt (if added)

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

Appendix Number 65  
Poultry Complete & Supplement Feeds

BLUE BIRD LAYER FEED

Complete Feed for Laying Chickens

Guaranteed Analysis

|                          |       |
|--------------------------|-------|
| Crude Protein (Min)..... | 15.0% |
| Lysine (Min).....        | 0.65% |
| Methionine (Min).....    | 0.35% |
| Crude Fat (Min).....     | 3.0%  |
| Crude Fiber (Max).....   | 3.5%  |
| Calcium (Min).....       | 3.4%  |
| Calcium (Max).....       | 4.4%  |
| Phosphorus (Min).....    | 0.6%  |
| Salt (Min).....          | 0.35% |
| Salt (Max).....          | 0.50% |

Ingredient Statement

Grain Products, Plant Protein Products, Processed Grain By-Products, Animal Protein Products, Vitamin A Supplement, Vitamin D<sub>3</sub> Supplement, Vitamin E Supplement, Riboflavin Supplement, Niacin Supplement, Calcium Pantothenate, Choline Chloride, Folic Acid, Menadione Sodium Bisulfite Complex (source of Vitamin K Activity), Methionine Supplement, Potassium Sulfate, Calcium Carbonate, Salt, Manganous Oxide, Ferrous Sulfate, Copper Sulfate, Zinc Oxide, Ethylenediamine Dihydriodide, Sodium Selenite.

Feeding Directions:

This is a complete and balanced ration. Feed Blue Bird Layer Feed from time first egg is laid throughout the time of egg production. Always provide plenty of fresh water.

Manufactured By:  
Blue Bird Feed Mill  
City, State, Zip

NET WT 50 LB (22.67 kg)

Appendix Number 76  
Required Guarantees for Beef Cattle Formula feeds.

- a. Animal Classes
- (1) Calves (birth to weaning)
  - (2) Cattle on Pasture (may be specific as to production stage; e.g. stocker, feeder, replacement heifers, brood cows, bulls, etc.)
  - (3) Feedlot Cattle
- b. Guaranteed analysis for Beef Complete Feeds and Supplements (all animal classes)
- (1) Minimum percentage of Crude Protein
    - (2) Maximum percentage of equivalent crude protein from Non-Protein Nitrogen (NPN) when added
  - (3) Minimum percentage of Crude Fat
  - (4) Maximum percentage of Crude Fiber
  - (5) Minimum and maximum percentage of Calcium
  - (6) Minimum percentage of Phosphorus
  - (7) Minimum and maximum percentage of Salt (if added)
  - (8) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
  - (9) Minimum percentage of Potassium
  - (10) 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)
- (1) Minimum and maximum percentage of Calcium
  - (2) Minimum percentage of Phosphorus
  - (3) Minimum and maximum percentage of Salt
    - (4) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
  - (5) Minimum percentage of Magnesium
  - (6) Minimum percentage of Potassium
  - (7) Minimum Copper in parts per million (ppm)
  - (8) Minimum Selenium in parts per million (ppm)
  - (9) Minimum Zinc in parts per million (ppm)
  - (10) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound

| Appendix Number 87<br>Beef Complete and Supplement Feeds / Beef Mineral  |   |
|--|---|
| <p style="text-align: center;"><b>BLUE BIRD BEEF FEED</b></p> <p style="text-align: center;">Pasture Extender for Beef Cattle</p> <p style="text-align: center;">Guaranteed Analysis</p> <p>Crude Protein (Min) ..... 12.0%<br/>(This includes not more than 2.9% equivalent crude protein from non-protein nitrogen)</p> <p>Crude Fat (Min)..... 2.0%</p> <p>Crude Fiber (Max)..... 10.0%</p> <p>Calcium (Min) .....0.5%</p> <p>Calcium (Max).....1.0%</p> <p>Phosphorus (Min).....0.65%</p> <p>Salt (Min) ..... 11.0%</p> <p>Salt (Max)..... 13.2%</p> <p>Potassium (Min).....0.4%</p> <p>Vitamin A (Min).....10,000 IU/lb</p> <p style="text-align: center;">Ingredient Statement</p> <p>Grain Products, Plant Protein Products, Molasses Products, Processed Grain By-Products, Urea, Vitamin A Supplement, Vitamin D<sub>3</sub> Supplement, Vitamin E Supplement, Calcium Carbonate, Monocalcium Phosphate, Salt, Manganous Oxide, Ferrous Sulfate, Copper Oxide, Magnesium Oxide, Zinc Oxide, Cobalt Carbonate, Ethylenediamine Dihydriodide, Potassium Chloride.</p> <p>Feeding Directions:<br/>Self-feed to beef cattle on pasture. Feed 4 to 6 pounds per head per day as a pasture extender. Provide plenty of fresh, clean water at all times.</p> <p>Caution: Use as directed. Observe cattle daily and monitor intake. Do not feed additional salt.</p> <p style="text-align: center;">Manufactured By<br/>Blue Bird Feed Mill<br/>City, State, Zip</p> <p style="text-align: center;">NET WT 50 LB (22.67 kg)</p> | <p style="text-align: center;"><b>BLUE BIRD BEEF MINERAL</b></p> <p style="text-align: center;">A Mineral Supplement for Beef Cattle on Pasture</p> <p style="text-align: center;">Guaranteed Analysis</p> <p>Calcium (Min) ..... 11.0%</p> <p>Calcium (Max)..... 13.0%</p> <p>Phosphorus (Min) ..... 6.0%</p> <p>Salt (Min)..... 20.0%</p> <p>Salt (Max) ..... 22.0%</p> <p>Magnesium (Min)..... 1.0%</p> <p>Potassium (Min) ..... 2.0%</p> <p>Copper (Min).....460 ppm</p> <p>Selenium (Min).....0.2 ppm</p> <p>Zinc (Min).....2,300 ppm</p> <p>Vitamin A (Min).....100,000 IU/lb</p> <p style="text-align: center;">Ingredient Statement</p> <p>Dicalcium Phosphate, Monocalcium Phosphate, Salt, Calcium Carbonate, Potassium Chloride, Distillers Dried Grains with Solubles, Can\ Molasses, Manganous Oxide, Ferrous Sulfate, Copper Sulfate, Magnesium Oxide, Zinc Oxide, Ethylenediamine Dihydriodide, Cobalt Carbonate, Iron Oxide, Sodium Selenite, Animal Fat, Vitamin A Supplement, Vitamin D<sub>3</sub> Supplement, Vitamin E Supplement, Manganese Sulfate, Mineral Oil.</p> <p>Feeding Directions:<br/>This mineral should be fed in dry, rain-protected feeder. Place near a water source where animals gather.<br/>Provide fresh, clean water at all times. Do not feed additional salt.</p> <p>Feed to beef cattle on <del>fescue</del> pasture at the rate of 4 oz./head/day.</p> <p style="text-align: center;">Manufactured By:<br/>Blue Bird Feed Mill<br/>City, State, Zip</p> <p style="text-align: center;">NET WT 50 LB (22.67 kg)</p> |

Appendix Number ~~9~~8  
 Required Guarantees for Dairy Formula Feeds

a. Animal Classes

- (1) Veal Milk Replacer ~~Milk Replacer to be fed for veal production~~
  - (2) Herd Milk Replacer ~~Milk Replacer to be fed for herd replacement calves.~~
  - (3) Starter ~~Approximately 3 days to 3 months.~~
  - (4) Growing Heifers, Bulls and Dairy Beef
    - (a) ~~Growing 1-3 months to 12 months of age~~
    - (b) ~~Grower 2- More than 12 months of age~~
- Non-Lactating Dairy Cattle: Replacement Dairy Heifers, Dairy Bulls and Dairy Calves

- (5) Lactating Dairy Calves
- (6) ~~Non-Lactating Dairy Cattle- Dry Dairy Cows~~

b. Guaranteed Analysis for Veal and Herd Replacement Milk Replacer

- (1) Minimum percentage Crude Protein
- (2) Minimum percentage Crude Fat
- (3) Maximum percentage of Crude Fiber
- (4) Minimum and Maximum percentage Calcium
- (5) Minimum percentage of Phosphorus
- (6) 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

- (1) Minimum percentage of Crude Protein
- (2) Maximum percentage of Equivalent Crude Protein from Non-Protein Nitrogen (NPN) when added
- (3) Minimum percentage of Crude Fat
- (4) Maximum percentage of Crude Fiber
- (5) Maximum percentage of Acid Detergent Fiber (ADF)
- (6) Minimum and Maximum percentage of Calcium
- (7) Minimum percentage of Phosphorus
- (8) Minimum Selenium in parts per million (ppm)
- (9) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)

d. Required Guaranteed Analysis for Dairy Mixing and Pasture Mineral (if added)

- (1) Minimum and Maximum percentage of Calcium
- (2) Minimum percentage of Phosphorus
- (3) Minimum and maximum percentage of Salt
- (4) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
- (5) Minimum percentage of Magnesium
- (6) Minimum percentage of Potassium
- (7) Minimum Selenium in parts per million (ppm)
- (8) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound

Appendix Number ~~10~~9  
 Dairy Complete and Supplement Feeds / Dairy Mineral

|  |  |
|--|--|
|  |  |
|  |  |

| BLUE BIRD DAIRY FEED   | BLUE BIRD DAIRY MINERAL   |
|--|---|
| Concentrate Ration for Lactating Dairy Cattle  | Mixing Mineral for Lactating Dairy Cattle   |
| Guaranteed Analysis  | Guaranteed Analysis   |
| <p>Crude Protein (Min) .....16.0%<br/>           (This includes not more than 3.5% equivalent crude protein from non-protein nitrogen)<br/>           Crude Fat (Min) .....2.5%<br/>           Crude Fiber (Max).....8.0%<br/>           Acid Detergent Fiber (ADF) (Max) .....14.0%<br/>           Calcium (Min) .....1.0%<br/>           Calcium (Max).....1.5%<br/>           Phosphorus (Min).....0.75%<br/>           Selenium (Min).....0.2 ppm<br/>           Vitamin A (Min).....7,000 IU/lb</p>   | <p>Calcium (Min) ..... 16.5%<br/>           Calcium (Max) ..... 17.0%<br/>           Phosphorus (Min) ..... 4.5%<br/>           Salt (Min) ..... 5.5%<br/>           Salt (Max)..... 6.5%<br/>           Sodium (min)..... 12.0%<br/>           Sodium (max).....14.0%<br/>           Magnesium (Min) ..... 5.5%<br/>           Potassium (Min)..... 6.6%<br/>           Selenium (Min) ..... 3 ppm<br/>           Vitamin A (Min).....115,000 IU/lb</p>  |
| Ingredient Statement   | Ingredient Statement  |
| <p>Grain Products, Plant Protein Products, Processed Grain By-Products, Animal Protein Products, Forage Products, Molasses Products, Dicalcium Phosphate, Urea, Mineral Oil, Vitamin A Supplement, Vitamin D<sub>3</sub> Supplement, Vitamin E Supplement, Ethoxyquin (a preservative), Hemicellulose Extract, Methionine Supplement, Calcium Carbonate, Salt, Manganous Oxide, Magnesium Oxide, Ferrous Sulfate, Copper Sulfate, Zinc Oxide, Potassium Chloride, Calcium Sulfate, Ethylenediamine Dihydriodide, Potassium Sulfate, Sodium Selenite, Natural and Artificial Flavors.</p> | <p>Dicalcium Phosphate, Monocalcium Phosphate, Calcium Carbonate, Sodium Bicarbonate, Potassium Chloride, Salt, Cane Molasses, Vitamin A Supplement, Vitamin D<sub>3</sub> Supplement, Vitamin E Supplement, Vitamin B<sub>12</sub> Supplement, Riboflavin Supplement, Niacin Supplement, Choline Chloride, Folic Acid, Ethoxyquin (a preservative), Calcium Pantothenate, Menadione Sodium Bisulfite Complex, Zinc Oxide, Manganous Oxide, Magnesium Oxide, Potassium Chloride, Iron Oxide, Copper Oxide, Ferrous Sulfate, Cobalt Carbonate, Ethylenediamine Dihydriodide, Sodium Selenite, Yeast Culture, Natural and Artificial Flavors.</p> |
| <p>Feeding Directions:<br/>           Feed 16 pounds per head per day to a 1,200 pound cow.<br/>           Feed 18.6 pounds per head per day to a 1,400 pound cow. Do not exceed 50% of the total dry matter intake from this feed.</p>  | <p>Feeding Directions:<br/>           Mix this product with grains, sources of protein, and other concentrates to prepare complete concentrated mixes for lactating dairy cows. Feed approximately 1.5 lb. of Dairy Mineral on a daily basis. Provide plain white stock salt on a free-choice basis.</p>  |
| <p>Manufactured By:<br/>           Blue Bird Feed Mill<br/>           City, State, Zip</p> <p>NET WT 50 LB (22.67 kg)</p>  | <p>Manufactured By:<br/>           Blue Bird Feed Mill<br/>           City, State, Zip</p> <p>NET WT 50 LB (22.67 kg)</p>   |

- a. Animal Classes
  - (1) ~~Foal~~ Growing
  - (2) ~~Mare~~ Broodmare
  - (3) ~~Breeding~~ Performance (Including Stallions)
  - (4) Maintenance
  
- b. Guaranteed Analysis for Equine Complete Feeds and Supplements (all animal classes)
  - (1) Minimum percentage of Crude Protein
  - (2) Minimum percentage of Crude Fat
  - (3) Maximum percentage of Crude Fiber
  - (4) Maximum percentage of Acid Detergent Fiber (ADF)
  - (5) Maximum percentage of Neutral Detergent Fiber (NDF)
    - (6) Minimum and maximum percentage of Calcium
    - (7) Minimum percentage of Phosphorus
    - (8) Minimum Copper in parts per million (ppm)
    - (9) Minimum Selenium in parts per million (ppm)
    - (10) Minimum Zinc in parts per million (ppm)
    - (11) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound  
(if added)
  
- c. Guaranteed Analysis for Equine Mineral Feeds (all animal classes)
  - (1) Minimum and maximum percentage of Calcium
  - (2) Minimum percentage of Phosphorus
  - (3) Minimum and maximum percentage of Salt (if added)
  - (4) Minimum and maximum percentage of total Sodium ~~shall be guaranteed only when Total Sodium exceeds that furnished by the maximum salt guarantee~~
  - (5) Minimum Copper in parts per million (ppm) (if added)
  - (6) Minimum Selenium in parts per million (ppm)
    - (7) Minimum Zinc in parts per million (ppm)
    - (8) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound  
(if added)

Appendix Number 4211  
Equine Complete and Supplement Feeds

BLUE BIRD 12% TEXTURED HORSE FEED

For Maintenance of Mature Horses

Guaranteed Analysis

|                          |             |
|--------------------------|-------------|
| Crude Protein (Min)..... | 12.0%       |
| Crude Fat (Min).....     | 3.0%        |
| Crude Fiber (Max).....   | 12.0%       |
| Calcium (Min).....       | 1.0%        |
| Calcium (Max).....       | 1.5%        |
| Phosphorus (Min).....    | 1.0%        |
| Copper (Min).....        | 20 ppm      |
| Selenium (Min).....      | 0.20 ppm    |
| Zinc (Min).....          | 40 ppm      |
| Vitamin A (Min).....     | 2,000 IU/lb |

Ingredient Statement

Grain Products, Plant Protein Products, Processed Grain By-Products, Molasses Products, Roughage Products, Vitamin A Supplement, Vitamin D<sub>3</sub> Supplement, Vitamin E Supplement, Vitamin B<sub>12</sub> Supplement, Riboflavin Supplement, Pyridoxine Hydrochloride, Folic Acid, Biotin, Thiamine, Calcium Carbonate, Salt, Dicalcium Phosphate, Manganous Oxide, Ferrous Sulfate, Copper Sulfate, Magnesium Oxide, Zinc Oxide, Ethylenediamine Dihydriodide, Cobalt Carbonate, Potassium Chloride, Sodium Selenite.

Feeding Directions:

Feed ½ to 1 lb. of feed per 100 lbs. of body weight for the maintenance of mature horses. Feed good quality hay at the rate of 1 to 2 lbs. per 100 lbs. body weight daily. Provide fresh, clean water at all times.

Important: Feed hay along with this ration, as per directions.

Manufactured By:  
Blue Bird Feed Mill  
City, State, Zip

NET WT 50 LB (22.67 kg)

| Appendix Number <del>13</del> 12<br>Required guarantees for <del>Goats and Sheep</del> Formula Feeds |   |
|--|---|
| a.   | Animal Classes  |
|  | (1) Starter   |
|  | (2) Grower  |
|  | (3) Finisher  |
|  | (4) Breeder   |
|  | (5) Lactating   |
| b.   | Guaranteed Analysis for Goat Complete Feeds and Supplements (all animal classes)  |
|  | (1) Minimum percentage of Crude Protein   |
|  | (2) Maximum percentage of equivalent crude protein from Non-Protein Nitrogen (NPN) when added   |
|  | (3) Minimum percentage of Crude Fat   |
|  | (4) Maximum percentage of Crude Fiber   |
|  | (5) Maximum percentage of Acid Detergent Fiber (ADF)  |
|  | (6) Minimum and Maximum percentage of Calcium   |
|  | (7) Minimum percentage of Phosphorus  |
|  | (8) Minimum and maximum percentage of Salt (if added)   |
|  | (9) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee            |
|  | (10) Minimum and maximum Copper in parts per million (ppm) (if added)   |
|  | (11) Minimum Selenium in parts per million (ppm)  |
|  | (12) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)   |
| Appendix Number 13<br>Required Guarantees for <del>Goats and Sheep</del> Formula Feeds               |   |
| a.   | <u>Animal Classes</u>   |
|  | <u>(1) Starter</u>  |
|  | <u>(2) Grower</u>   |
|  | <u>(3) Finisher</u>   |
|  | <u>(4) Breeder</u>  |
|  | <u>(5) Lactating</u>  |
| b.   | <u>Guaranteed Analysis for Sheep Complete Feeds and Supplements (all animal classes)</u>  |
|  | <u>(1) Minimum percentage of Crude Protein</u>  |
|  | <u>(2) Maximum percentage of equivalent crude protein from Non-Protein Nitrogen (NPN) when added</u>  |
|  | <u>(3) Minimum percentage of Crude Fat</u>  |
|  | <u>(4) Maximum percentage of Crude Fiber</u>  |
|  | <u>(5) Minimum and Maximum percentage of Calcium</u>  |
|  | <u>(6) Minimum percentage of Phosphorus</u>   |
|  | <u>(7) Minimum and maximum percentage of Salt (if added)</u>  |
|  | <u>(8) Minimum and maximum percentage of total Sodium shall be guaranteed only when the total Sodium exceeds that furnished by the maximum salt guarantee</u> |
|  | <u>(9) Minimum and maximum Copper in parts per million (ppm) (if added, or if total copper exceeds 20 ppm)</u>  |
|  | <u>(10) Minimum Selenium in parts per million (ppm)</u>   |
|  | <u>(11) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)</u>  |



Appendix 14  
Sheep Complete Feed and Supplements

YOUR SHEEP FEED

For breeding ewes

Guaranteed Analysis

|  |                    |
|--|--------------------|
| <u>Crude Protein (Min)</u> .....   | <u>15.0%</u>       |
| <u>(This includes not more than 1.0% equivalent crude protein from non-protein nitrogen)</u> |                    |
| <u>Crude Fat (Min)</u> .....   | <u>2.0%</u>        |
| <u>Crude Fiber (Max)</u> .....   | <u>20.0%</u>       |
| <u>Calcium (Min)</u> .....   | <u>0.8%</u>        |
| <u>Calcium (Max)</u> .....   | <u>1.3%</u>        |
| <u>Phosphorus (Min)</u> .....  | <u>0.35%</u>       |
| <u>Salt (min)</u> .....  | <u>0.35%</u>       |
| <u>Salt (max)</u> .....  | <u>0.85%</u>       |
| <u>Copper (Min)</u> .....  | <u>5.0 ppm</u>     |
| <u>Copper (Max)</u> .....  | <u>10.0 ppm</u>    |
| <u>Selenium (Min)</u> .....  | <u>0.3 ppm</u>     |
| <u>Vitamin A (Min)</u> .....   | <u>2,000 IU/lb</u> |

Ingredient Statement

Grain Products, Plant Protein Products, Processed Grain By-Products, Roughage Products, Ammonium Chloride, Vitamin A Supplement, Cholecalciferol (source of Vitamin D<sub>3</sub>), Choline Chloride, Biotin, Thiamine Mononitrate, Pyridoxine Hydrochloride, Vitamin E Supplement, Copper Sulfate, Folic Acid, Ethoxyquin (a preservative), Calcium Carbonate, Dicalcium Phosphate, Monocalcium Phosphate, Manganous Oxide, Zinc Oxide, Ferrous Sulfate, Cobalt Carbonate, Potassium Chloride, Sodium Selenite.

Feeding Directions:

Feed as sole source of grain to breeding ewes at the rate of 2 to 3 pounds per head per day.

Caution: Use as directed. For sheep Only.

Manufactured By:  
Your Name Feed Mill  
City, State, Zip

NET WT 50 LB (22.67 kg)

**Appendix Number ~~14~~ 15**  
**Required Guarantees for Duck and Geese Formula Feeds.**

- a. Animal Classes
  - (1) Ducks
    - (a) Starter – 0 to 3 weeks of age
    - (b) Grower – 3 to 6 weeks of age
    - (c) Finisher – 6 weeks to market
    - (d) Breeder Developer – 8 to 19 weeks of age
    - (e) Breeder – 22 weeks to end of lay
  - (2) Geese
    - (a) Starter – 0 to 4 weeks of age
    - (b) Grower – 4 to 8 weeks of age
    - (c) Finisher – 8 weeks to market
    - (d) Breeder Developer – 10 to 22 weeks of age
    - (e) Breeder – 22 weeks to end of lay
  
- b. Guaranteed Analysis for Duck and Geese Complete Feeds and Supplements (for all animal classes)
  - (1) Minimum percentage of Crude Protein
  - (2) Minimum percentage of Crude Fat
  - (3) Maximum percentage of Crude Fiber
  - (4) Minimum and maximum percentage of Calcium
  - (5) Minimum percentage of Phosphorus
  - (6) Minimum and maximum percentage of Salt (if added)
    - (7) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee

**Appendix Number ~~15-16~~**  
**Required Guarantees for Fish Complete Feeds and Supplements**

- a. Animal Species shall be declared in lieu of animal class
  - (1) Trout
  - (2) Catfish
  - (3) Species other than trout or catfish
  
- b. Guaranteed analysis for all Fish Complete Feeds and Supplements
  - (1) Minimum percentage of Crude Protein
  - (2) Minimum percentage of Crude Fat
  - (3) Maximum percentage of Crude Fiber
  - (4) Minimum percentage of Phosphorus

Appendix Number ~~46~~ 17  
Required Guarantees for Rabbit Complete Feeds and Supplements

- a. Animal Classes
  - (1) Grower – 4 to 12 weeks of age
  - (2) Breeder – 12 weeks of age and over
  
- b. Guaranteed analysis for Rabbit Complete Feeds and Supplements (all animal classes)
  - (1) Minimum percentage of Crude Protein
  - (2) Minimum percentage of Crude Fat
  - (3) Minimum and maximum percentage of Crude Fiber (the maximum crude fiber shall not exceed the minimum by more than 5.0 units)
  - (4) Minimum and maximum percentage of Calcium
  - (5) Minimum percentage of Phosphorus
  - (6) Minimum and maximum percentage of Salt (if added)
    - (7) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
    - (8) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)

Appendix Number ~~17-18~~

The required guarantees of **grain mixtures with or without molasses and feeds other than those described in Appendices ~~3, 5, 7, 9, 11, 13, 14, 15~~ and ~~2, 4, 6, 8, 10, 12, 13, 15, 16, and 17~~**, shall include the following items, unless exempted in Part ~~7.1.a.3.A.1, 7.1.c.1~~, in the order listed:

- a. Animal class(es) and species for which the product is intended.
- b. Guaranteed analysis
  - (1) Minimum percentage of Crude Protein
  - (2) Maximum or minimum percentage of equivalent Crude Protein from Non-Protein Nitrogen  
as required in Section 8.5.
  - (3) Minimum percentage of Crude Fat
  - (4) Maximum percentage of Crude Fiber
  - (5) Minerals in formula feeds, to include in the following order:
    - (a) Minimum and maximum percentage of Calcium
    - (b) Minimum percentage of Phosphorus
    - (c) Minimum and maximum percentage of Salt (if added)
    - (d) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
    - (e) Other Minerals
  - (6) Minerals in feed ingredients – as specified by the official definitions of the Association of American Feed Control Officials
  - (7) Vitamins in such terms as specified in Section 8.3.
  - (8) Total sugars as invert on dried molasses products or products being sold primarily for their sugar content
  - (9) Viable lactic acid producing microorganisms for use in silages in terms specified in Section 8.7.
  - (10) 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. Article II of AAFCO's "Criteria for Labeling Nutritional Indicators" is not applicable to the label guarantees for these specialized commercial feeds.

Appendix Number ~~18~~ 19  
AFFIDAVIT

**Affidavit of Suitability**

\_\_\_\_\_  
(Company Name) (Product Name & Code Number)  
1. Affidavit is the \_\_\_\_\_ of \_\_\_\_\_  
(Title) (Name of Company)

and is duly authorized to make and execute this Affidavit for and on behalf of said company.

2. Affiant has knowledge of the nutritional content of the above listed feed product and is familiar with the nutritional requirements for the animal species and animal class(es) for which the feed product is intended.

3. Affiant has knowledge of valid scientific evidence that supports the suitability of the product for the intended animal species and animal class for which this feed is intended. A copy of the product label is attached to this affidavit.

\_\_\_\_\_  
(Name of Company) By \_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Title)

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
(Notary Public)