

ARTICLE 7-04-04
EMERALD ASH BORER

Chapter

- 7-04-04-01 Definitions
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- 7-04-04-06 Exceptions

Section

7-04-04-01 Definitions

7-04-04-01. Definitions.

1. "Ash" means all species of the genus *Fraxinus*.
2. "Certificate" means a document issued or authorized by the commissioner indicating a regulated article is not contaminated with a pest.
3. "Commissioner" means the agriculture commissioner or the designee or the authorized representative of the commissioner.
4. "Compliance Agreement" means a written agreement between a person moving regulated articles and the commissioner.
5. "Department" means the North Dakota department of agriculture.
6. "Emerald Ash Borer" means the insect known as emerald ash borer, *Agilus planipennis* Fairmaire (Coleoptera: Buprestidae), in any living stage of development.
7. "Move" means to ship, offer for shipment, receive for transportation, carry, or otherwise transport, or allow to be transported.
8. "Person" means any individual, corporation, limited liability company, company, limited liability partnership, society, or association, or other business entity.
9. "Regulated article" means any article of any character as described in a regulation carrying or capable of carrying the plant pest against which the regulation is directed.
10. "State" means the District of Columbia, Puerto Rico, the Northern Mariana Islands, or any state, territory, or possession of the United States.

History: Effective XXXXX, 2020.

General Authority: NDCC 4.1-23-02

Law Implemented: NDCC 4.1-23-04

Section

7-04-04-02 Regulated Articles

7-04-04-02. Regulated Articles.

Regulated articles are as follows:

1. The emerald ash borer, *Agrilus planipennis* Fairmaire, in any stage of development.
2. Firewood of all non-coniferous (hardwood) species.
3. Entire ash trees.
4. Untreated (with bark and sapwood) ash limbs, branches, logs, stumps, and roots capable of harboring emerald ash borer.
5. Ash nursery stock.
6. Ash chips and ash bark chips.
7. Any article, product, or means of conveyance which the commissioner determines to present a risk of spread of emerald ash borer and the commissioner has notified the person in possession of that article, product, or means of conveyance, is subject to this regulation.

History: Effective XXXXX, 2020.

General Authority: NDCC 4.1-23-02

Law Implemented: NDCC 4.1-23-04

Section

7-04-04-03 Regulated Areas

7-04-04-03. Regulated Areas.

1. The commissioner shall maintain an updated list or map of regulated areas on the department website.

History: Effective XXXXX, 2020.

General Authority: NDCC 4.1-23-02

Law Implemented: NDCC 4.1-23-04

Section

7-04-04-04 Restrictions on Regulated Articles and Conditions on the Movement of Regulated Articles

7-04-04-04. Restrictions on Regulated Articles and Conditions on the Movement of Regulated Articles.

Regulated materials may not be moved from a regulated area to a non-regulated area except under the following conditions:

1. Ash nursery stock movement is prohibited with no exceptions.
2. Other regulated articles must be treated or subjected to special handling under a compliance agreement or permit from the department or state of origin.
3. The regulated article is inspected and found to be apparently free of infestation by an inspector in the state of origin and indicated as such on a phytosanitary certificate or certificate of inspection.
4. The regulated article is treated in a manner approved by the regulatory agency in the state of origin in a way that prevents the regulated article from presenting a risk of spreading emerald ash borer, as indicated on a phytosanitary certificate or compliance agreement.
5. Hardwood firewood shall be labeled to county or parish of origin for partially regulated states.

History: Effective XXXXX, 2020.

General Authority: NDCC 4.1-23-02

Law Implemented: NDCC 4.1-23-04

7-04-04-05 Violations and Penalties

7-04-04-05. Violations and Penalties.

Any person violating these regulations may be subject to penalties in accordance with North Dakota Century Code 4.1-23-08.

History: Effective XXXXX, 2020.

General Authority: NDCC 4.1-23-02

Law Implemented: NDCC 4.1-23-08

Section

7-04-04-06 Exceptions

7-04-04-06. Exceptions.

Exceptions may be made at the discretion of the commissioner.

History: Effective XXXXX, 2020.

General Authority: NDCC 4.1-23-02

Law Implemented: NDCC 4.1-23-04

**ARTICLE 7-06
NOXIOUS WEEDS**

Chapter
~~7-06-01~~ General Provisions

**CHAPTER 7-06-01
GENERAL PROVISIONS**

Section
~~7-06-01-01~~ ~~Weed Control Officer's Certification [Repealed]~~
~~7-06-01-02~~ ~~Noxious Weeds Listed~~

~~7-06-01-01. Weed control officer's certification.~~

~~Repealed effective April 1, 2010.~~

~~7-06-01-02. Noxious weeds listed.~~

~~Weeds declared noxious shall be confined to weeds that are difficult to control, easily spread, and injurious to public health, crops, livestock, land, or other property. The following weeds have been declared noxious for the purpose of North Dakota Century Code chapter 63-01.1:~~

- ~~1. Absinth wormwood (*Artemisia absinthium* L.).~~
- ~~2. Canada thistle (*Cirsium arvense* (L.) Scop.).~~
- ~~3. Dalmatian toadflax (*Linaria dalmatica*).~~
- ~~4. Diffuse knapweed (*Centaurea diffusa* Lam.).~~
- ~~5. Houndstongue (*Cynoglossum officinale*).~~
- ~~6. Leafy spurge (*Euphorbia esula* L.).~~
- ~~7. Musk thistle (*Carduus nutans* L.).~~
- ~~8. Purple loosestrife (*Lythrum salicaria* L., *Lythrum virgatum* L., and all cultivars).~~
- ~~9. Russian knapweed (*Rhaponticum repens*).~~
- ~~10. Salteedar (*Tamarix spp.*).~~
- ~~11. Spotted knapweed (*Centaurea stoebe*).~~
- ~~12. Yellow toadflax (*Linaria vulgaris*).~~

History: ~~Amended effective June 1, 1985; February 1, 2000; September 1, 2002; April 1, 2010; July 1, 2019.~~

General Authority: ~~NDCC 4.1-47-04, 28-32-02~~

Law Implemented: ~~NDCC 4.1-47-04~~

**ARTICLE 7-09 MARKETING
DIVISION PRIDE OF DAKOTA
PROGRAM**

Chapter
7-09-01 Pride of Dakota Logo Promotion Program

**CHAPTER 7-09-01
PRIDE OF DAKOTA LOGO
PROMOTION PROGRAM**

Section	
7-09-01-01	Purpose
7-09-01-02	Definitions
7-09-01-03	Eligibility for Use of Logo <u>Eligible Applicants</u>
7-09-01-04	Application
7-09-01-05	Fees
7-09-01-06	Authorization
7-09-01-07	Renewal of Authorization
7-09-01-08	Promotional Use of the Logo
7-09-01- 09 <u>08</u>	Improper Use
7-09-01- 10 <u>09</u>	Enforcement
7-09-01- 11 <u>10</u>	No Warranty of Quality
7-09-01- 12 <u>11</u>	Compliance with Other Law

7-09-01-01. Purpose.

In keeping with the policy of the North Dakota department of agriculture ~~and its marketing division~~ to expand, improve, and develop markets for North Dakota products by promoting their use and sale and pursuant to house concurrent resolution and appropriation by the 1985 legislative assembly, it is the purpose of the pride of Dakota ~~logo promotion~~ program to identify and promote those products which are created, produced, processed, or manufactured in North Dakota.

History: Effective May 1, 1988. Amended XXXXX, 2020

General Authority: NDCC 28-32-02

Law Implemented: NDCC ~~4-01-19~~; S.L. 1985, Ch. 748; S.L. 1985, Ch. 1, Subdiv. 13 4.1-01-08

7-09-01-02. Definitions.

All terms have the same meaning as in North Dakota century code title 4.1 unless otherwise specified.

1. "Business" means any individual, partnership, cooperative association, corporation, business trust, or unincorporated organization or other business with a permanent place of business located completely or in part within the boundaries of North Dakota.
- ~~2. "Commissioner" means the commissioner of the North Dakota department of agriculture or his authorized representative or designee.~~
- ~~3. "Commodity council" means any of the agriculture research and promotion councils or commissions created pursuant to the provisions of the North Dakota Century Code, generally in title 4.~~
- ~~4. "Department" means the North Dakota department of agriculture.~~
5. "Educational institutions" means any North Dakota schools, colleges, universities, or other North Dakota educational institutions.
6. "Improper use" means any use of the logo not authorized by the ~~department or the marketing division~~ agriculture commissioner or a use of the logo inconsistent with ~~the rules stated in this chapter.~~ program policy.

7. "Manufacturer" or "processor" means an individual, partnership, cooperative association, or corporation which processes or manufactures raw materials, agriculture products, or ingredients into food or nonfood products.
8. ~~"Marketing division" means the state marketing bureau within the department of agriculture designated by North Dakota Century Code section 4-01-19.~~
9. ~~"Nonprofit organization" means any established nonprofit organization in North Dakota.~~
10. "Pride of Dakota logo", or "logo" means the logo developed for the North Dakota department of agriculture to identify a product which is created, produced, processed, or manufactured in North Dakota.
11. "Producer" means any individual, partnership, family farm, family farm corporation, or cooperative association actually engaged in the production for sale of agriculture products.
12. "Product" means any product that is created, produced, processed, or manufactured within the state of North Dakota for sale or distribution in its final form.
13. "Trade association" means a North Dakota-based organization of producers, processors, manufacturers, retailers, or wholesalers of products.

History: Effective May 1, 1988. Amended XXXXX, 2020.

General Authority: NDCC 28-32-02

Law Implemented: ~~NDCC 4-01-19; S.L. 1985, Ch. 748; S.L. 1985, Ch. 1, Subdiv. 13~~ 4.1-01-08.

7-09-01-03. Eligibility for use of logo. Eligible applicants.

1. **Producers.** Any North Dakota producer may apply to use the logo on any agriculture product to be used in its original form or on any agriculture product intended to be processed or manufactured, if the agriculture product is produced on a farm or other production unit located completely, or in part, within the boundaries of North Dakota, and if the processed or manufactured agriculture product meets all applicable minimum requirements for the product in North Dakota.
2. **Processors and manufacturers.** Any processor or manufacturer may apply to use the logo on any product, if the product was processed or manufactured in a factory or plant located completely, or in part, within the boundaries of North Dakota, and if the product meets all the applicable minimum requirements of law for processing or manufacturing the product in North Dakota.
3. **Others.** Any business, trade association, educational institution, established North Dakota nonprofit organization, or commodity ~~council~~group may apply to use the logo on products created, produced, processed, or manufactured by them.

History: Effective May 1, 1988. Amended XXXX, 2020.

General Authority: NDCC 28-32-02

Law Implemented: ~~NDCC 4-01-19; S.L. 1985, Ch. 748; S.L. 1985, Ch. 1, Subdiv. 13~~ 4.1-01-08.

7-09-01-04. Application.

1. Any eligible producer, processor, manufacturer, business, trade association, commodity ~~council~~group, education institutional, or nonprofit organization located completely or in part within North Dakota may apply to use the logo.
2. All applicants must be registered and in good standing with the state of North Dakota.
3. Application must be made on forms provided by the department and must contain all of the following:
 - a. The name and address of the applicant.
 - i. The address must indicate the applicant performs substantial functions in North Dakota.

- b. The location of the producer, processing or manufacturing facility or plant, business, trade association, commodity ~~council~~group, educational institution, or nonprofit organization providing products on which the logo is intended to be used.
- c. A comprehensive list of all products on which the logo may be used.
 - i. Application to use the logo with any product not originally listed with the department may be made at any time.
- d. ~~A market or promotion plan for use of the logo.~~

History: Effective May 1, 1988. Amended XXXX, 2020.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 4-01-19; S.L. 1985, Ch. 748; S.L. 1985, Ch. 1, Subdiv. 13 4.1-01-08.

7-09-01-05. Fees.

1. An eligible producer, processor, manufacturer, established nonprofit organization, or business will pay an annual fee for the use of the logo at a rate to be determined by the department ~~based on the size and number of employees of the operation of the producer, processor, manufacturer, or business. This fee will be no less than fifty dollars and no greater than one thousand dollars.~~
2. An eligible trade association, commodity council, or educational institution will pay an annual fee for the use of the logo as determined by the department. ~~The minimum annual fee for these organizations will be two hundred fifty dollars.~~
3. ~~An established North Dakota nonprofit organization will pay an annual fee for the use of the logo as determined by the department. This annual fee will be no less than fifty dollars and no more greater than two hundred fifty dollars.~~
4. The income from the fees collected by the department will be used by ~~the marketing division~~ of the department in the development of programs to promote recognition and awareness of the logo among the consuming public.
5. ~~Application to use the logo with any product not originally listed with the department may be made at any time.~~
6. A voluntary advisory council of seven members will be appointed by the commissioner from ~~trade associations, commodity councils, educational institutions, producers, processors, manufacturers, and businesses~~ to advise the department on ~~the use of logo fees and the development of promotional programs.~~ regarding issues related to the pride of Dakota program.
 - a. Members of the advisory council may not receive any compensation for their services on the council, but are entitled to be reimbursed for their expenses incurred in performing their duties in the amounts provided by law for state employees.

History: Effective May 1, 1988. Amended XXXX, 2020.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 4-01-19; S.L. 1985, Ch. 748; S.L. 1985, Ch. 1, Subdiv. 13 4.1-01-08.

7-09-01-06. Authorization.

1. Authorization from the department to use the logo depends upon approval of an application by the commissioner and extends ~~for one year from the authorization date through December~~ thirty-first of that year. Renewal applications are due January first every year.
2. ~~Use of the logo on approved products remains discretionary with the authorized user during the one-year authorization period.~~
3. Authorized users will receive a certificate of authorization to use the logo, ~~including a registration number~~, which they may display in their place of business. Reproduction proofs of the logo will be furnished to authorized users.
4. ~~The marketing division~~ of the department will advise and assist any authorized user of the logo with respect to the size of the logo, its color, its placement on packages, or similar

matters, as requested. There may be no alteration in design, color, or makeup of the logo without prior written approval of the commissioner.

History: Effective May 1, 1988. Amended XXXX, 2020.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 4-01-19; S.L. 1985, Ch. 748; S.L. 1985, Ch. 1, Subdiv. 13 4.1-01-08.

7-09-01-07. Renewal of authorization.

1. The department shall notify authorized users of the Logo of ~~their scheduled~~ the January first renewal date ~~sixty days~~ six weeks prior to the expiration of their authorization to use the logo.
2. Authorization to use the Logo may be renewed if reapplication, including any changes in information provided with the previous application, is made on forms provided by the department and approval is granted by the commissioner.
3. Renewal of authorization may be denied if at the discretion of the commissioner ~~determines that there has been improper use of the logo or if the user fails to reapply for authorization to use the logo within thirty days after the scheduled renewal date.~~

History: Effective May 1, 1988. Amended XXXXX, 2020.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 4-01-19; S.L. 1985, Ch. 748; S.L. 1985, Ch. 1, Subdiv. 13 4.1-01-08.

~~7-09-01-08. Promotional use of the logo.~~

~~The logo may be used for promotional purposes by an authorized producer, processor, or manufacturer on any materials used in a direct national or international marketing effort, by an authorized business, commodity council, trade association, educational institution, or nonprofit organization in any promotion of North Dakota products, or by the department on any stationery, business cards, or other items determined by the commissioner to promote North Dakota products.~~

History: Effective May 1, 1988.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 4-01-19; S.L. 1985, Ch. 748; S.L. 1985, Ch. 1, Subdiv. 13

~~7-09-01-0908. Improper use.~~

~~Improper use includes: use on products not created, produced, processed, or manufactured in whole or in part within the boundaries of North Dakota, allowing use of the logo by another person who is not an authorized user; using the logo without prior approval of the commissioner of agriculture; and any use which the commissioner determines may be detrimental to the promotion of North Dakota products.~~

Improper use of the logo includes:

1. Use on products not created, produced, processed, or manufactured in whole or in part within the boundaries of North Dakota;
2. Allowing the use of the logo by another person who is not an authorized user:
 - a. Authorization to use the logo is nontransferrable.
3. Using the logo without prior approval of the commissioner;
4. Using the logo without current approval of the commissioner; or
5. Any use which the commissioner determines to be intelligible.

History: Effective May 1, 1988. Amended XXXX, 2020.

General Authority: NDCC 28-32-02

Law Implemented: NDCC ~~4-01-19~~; S.L. 1985, Ch. 748; S.L. 1985, Ch. 1, Subdiv. 13 4.1-01-08.

7-09-01-1009. Enforcement.

1. **Investigation and revocation.** If the commissioner has reason to believe there is improper use of the logo, the commissioner may investigate the use to determine whether improper use has occurred. After investigation, the commissioner may revoke authorization or refuse to grant or renew authorization to use the logo if the commissioner determines that improper use has occurred.

2. **Civil action.** When an investigation by the commissioner reveals improper use of the logo is occurring or has occurred, the commissioner may seek injunctive relief or seek to apply other appropriate legal remedies in a court of competent jurisdiction.

History: Effective May 1, 1988. Amended XXXX, 2020.

General Authority: NDCC 28-32-02

Law Implemented: NDCC ~~4-01-19~~; S.L. 1985, Ch. 748; S.L. 1985, Ch. 1, Subdiv. 13 4.1-01-08

7-09-01-1110. No warranty of quality.

Use of the logo does not represent a warranty by the department of any kind, expressed or implied, about the quality of the product on which the logo appears. Authorized use of the logo means only that the product has been approved to use the logo as a product that was created, produced, processed, or manufactured in whole, or in part, within the boundaries of North Dakota, and that the authorized user, and not the department, represents that the product meets all applicable minimum legal requirements for creating, producing, processing, or manufacturing the product in North Dakota.

History: Effective May 1, 1988. Amended XXXX, 2020.

General Authority: NDCC 28-32-02

Law Implemented: NDCC ~~4-01-19~~; S.L. 1985, Ch. 748; S.L. 1985, Ch. 1, Subdiv. 13 4.1-01-08.

7-09-01-1211. Compliance with other law.

Compliance with the rules of this chapter does not exempt any business producer, processor, or manufacturer from complying with other applicable statutes and rules relating to any product, including the labeling requirements of any product.

History: Effective May 1, 1988. Amended XXXX, 2020.

General Authority: NDCC 28-32-02

Law Implemented: NDCC ~~4-01-19~~; S.L. 1985, Ch. 748; S.L. 1985, Ch. 1, Subdiv. 13 4.1-01-08.

**ARTICLE 7-12
ANHYDROUS AMMONIA REGULATION**

Chapter	
7-12-01	Anhydrous Ammonia Standards
7-12-02	Anhydrous Ammonia Nurse Tank and Storage Container Lock Pilot Program [Repealed]
7-12-03	Risk Management Program for Agricultural Anhydrous Ammonia Facilities

**CHAPTER 7-12-01
ANHYDROUS AMMONIA STANDARDS**

Section	
7-12-01-01	Adoption of Standards
7-12-01-02	Definitions
7-12-01-03	Administration and Enforcement
7-12-01-04	General Requirements
7-12-01-05	Specific Requirements for Nonrefrigerated Anhydrous Ammonia Storage Facilities
7-12-01-06	Specific Requirements for Nurse Tanks
7-12-01-07	Documented Training
7-12-01-08	<u>Alternate Procedures for Transferring Anhydrous Ammonia Directly From Cargo Tanks to Nurse Tanks</u> <u>Requirements for Downloading Anhydrous Ammonia from a Mobile Storage Container into a Nurse Tank</u>

7-12-01-01. Adoption of standards.

1. The American national standard safety requirements for the storage and handling of anhydrous ammonia "~~K61.1-1989~~" ANSI/CGA G-2.1-2014 is hereby adopted, ~~except sections 2.5, 5.2.1, 5.2.2.1, and 5.2.2.2 of this standard are adopted as amended by North Dakota Century Code section 19-20.2-01, except section 5.7.10.~~
2. The ~~2010~~2017 edition of the American society of mechanical engineers boiler and pressure vessel code, section II; section V; section VIII, division 1; and section IX are hereby adopted and incorporated by reference as a part of this article.
3. The ~~2014~~2017 edition of the national board inspection code, an American national standard, is hereby adopted and incorporated by reference as a part of this article.
4. The American society for nondestructive testing standard "SNT-TC-1A" is hereby adopted and incorporated by reference as a part of this article.
5. The ~~2010~~2016 edition of ASME B31.3, the American national standard for chemical plant and petroleum refinery piping, is hereby adopted and incorporated by reference as a part of this article.
6. The ~~2010~~2016 edition of ASME B31.5, the American national standard for refrigeration piping, is hereby adopted and incorporated by reference as a part of this article.
7. The American petroleum institute standard 620, recommended rules for design and construction of large, welded, low-pressure storage tanks, is hereby adopted and incorporated by reference as a part of this article.

History: Effective July 1, 1996; amended effective June 1, 2005; April 1, 2013-; XXXX, 2020.

General Authority: NDCC ~~49-20.2-014.1-37-01~~

Law Implemented: NDCC ~~49-20.2-014.1-37-01~~

7-12-01-02. Definitions.

The following definitions are in addition to those thirty-four definitions listed in "~~ANSI K61.1-~~

~~4989~~", ANSI/CGA G-2.1-2014, section 2.

Note that part 2.5 of section 2, definitions, is altered by North Dakota Century Code section ~~49-20.2-01~~.

1. "Accident or incident" means an event involving nurse tanks or storage containers and their appurtenances which results in damage to pressure vessels or their appurtenances, or both, requiring repair. Leakage or discharge of more than one hundred pounds [45.36 kilograms] of anhydrous ammonia will be considered an incident.
2. "Anhydrous ammonia storage facility" means a bulk anhydrous ammonia storage facility with a storage container capacity exceeding six thousand gallons [22712.47 liters] which is owned or operated by a user or vendor of anhydrous ammonia. Anhydrous ammonia nurse tank storage lots are not included in this definition.
3. "Bulk delivery vehicle" means a United States department of transportation inspected and approved cargo tank.
4. "DOT specifications" means regulations of the United States department of transportation published in 49 CFR chapter 1.
5. "Existing anhydrous ammonia storage facility" means any permanent anhydrous ammonia storage facility constructed before July 1, 1985.
6. "Hydrostatic test" means a pressure test of a storage tank using water as a medium to the standards referenced in the national board inspection code.
7. "Labeled" means there is attached a label, symbol, or other identifying mark of a nationally recognized testing laboratory which makes periodic inspections of the production of such equipment and whose labeling indicates compliance with nationally recognized standards or tests to determine safe use in a specified manner.
8. "National board" means the national board of boiler and pressure vessel inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229, whose membership is composed of the various governmental jurisdictions who are charged with the enforcement of the provisions of the American society of mechanical engineers code.
9. "New anhydrous ammonia storage facility" means any permanent anhydrous ammonia storage facility constructed after July 1, 1985.
10. "Nurse tank" means an implement of husbandry meeting the definition of section 2.2 of the ~~ANSI K61.1~~ ANSI/CGA G-2.1 standard.
11. "Refrigerated storage facility" means an anhydrous ammonia storage facility utilizing tanks for the storage of anhydrous ammonia under refrigerated conditions.
12. "Registered pressure vessel" means a permanent storage container ~~inspected by the chief boiler inspector and~~ identified by a decal having a unique identification number, preceded by the letters "AA".
13. "Reinstalled pressure vessel" means a pressure vessel removed from its original setting and reerected at the same location or erected at a new location without change of ownership.
14. "Retail and storage facility" means an anhydrous ammonia storage facility selling or intending to sell anhydrous ammonia to the general public.
15. "Secondhand pressure vessel" means a pressure vessel of which both the location and the ownership have been changed after primary use.

16. "SNT-TC-1A" means the society for nondestructive testing standard for nondestructive testing of pressure vessel welds, material, and the testing of personnel making nondestructive tests.
17. "Storage facility" means an anhydrous ammonia storage facility transferring or filling anhydrous ammonia for its own use and not for sale to the general public.
18. "Tank car" means a pressure vessel designed to be permanently attached to or forming a part of a railcar structure in compliance with the department of transportation specifications (formerly ICC specifications), and having the approval of the association of American railroads.
19. "Wet fluorescent magnetic particle test" means a nondestructive test of interior tank welds using a magnaflux procedure with fluorescent lighting to detect surface cracks, using SNT-TC-1A standards.

History: Effective July 1, 1996; amended effective June 1, 2005- :~~XXXXX~~, 2020.

General Authority: NDCC ~~49-20.2-04~~ 4.1-37-01

Law Implemented: NDCC ~~49-20.2-04~~ 4.1-37-01

7-12-01-03. Administration and enforcement.

1. The administration and enforcement of North Dakota Century Code chapter ~~49-20.2~~ 4.1-37 and this chapter is the responsibility of the agriculture commissioner.
2. The agriculture commissioner shall conduct initial and periodic inspection of anhydrous ammonia storage facilities to verify compliance with this chapter and any rules adopted under this chapter.
3. Owners, users, or vendors of new installations made ~~after July 1, 1995~~, will not be issued an operator's license until the completed anhydrous ammonia storage facility site has been inspected by the agriculture commissioner and complies with this chapter and North Dakota Century Code chapter ~~49-20.24~~ 4.1-37.
4. Owners, users, or vendors of anhydrous ammonia must notify the ~~chief boiler inspector~~ agriculture commissioner of storage containers to be used in North Dakota or brought into the state for temporary purposes.
5. Containers found, after inspection, to be defective or otherwise unsafe to operate, or disqualified by legal requirements, must be rejected by the agriculture commissioner, who may order the container immediately depressurized and taken out of service.
6. Defective conditions not posing an immediate hazard, noted during initial and periodic inspections, must be corrected in a timely manner. The time allowed for corrections to take place will be at the discretion of the agriculture commissioner.
7. Operating licenses must be posted in a conspicuous place at the plant or office of the owner, user, or vendor and available for inspection during regular business hours.
8. Anyone spilling one hundred pounds [45.36 kilograms] or more of anhydrous ammonia must report this as soon as possible to the national response center at 1-800-424-8802, to the North Dakota department of emergency services at 701-328-9921, and to the appropriate county emergency manager.
9. The agriculture commissioner may require compliance with any local siting requirements for the issuance or maintenance of an operating license.

History: Effective July 1, 1996; amended effective April 1, 2013- :~~XXXXX~~, 2020.

General Authority: NDCC ~~49-20-2-04~~ 4.1-37-01

Law Implemented: NDCC ~~49-20-2-04~~ 4.1-37-01

7-12-01-04. General requirements.

1. **Frequency of inspection.** Existing anhydrous ammonia storage facilities must be inspected once every five years by the agriculture commissioner. New anhydrous ammonia storage facilities must be inspected by the agriculture commissioner prior to any license being issued, and at an interval of once every five years thereafter.
2. **Minimum requirements for new storage containers other than refrigerated storage containers.**
 - a. American society of mechanical engineers constructed and so stamped;
 - b. National board registered;
 - c. Metal specified tensile strength not exceeding seventy thousand pounds per square inch [482636 kilopascals];
 - d. Head and shell materials for storage containers made in accordance with fine grain practice;
 - e. All welds postweld heat treated after construction, for all storage containers ~~ordered or installed after January 1, 1996~~. An implement of husbandry does not require postweld heat treatment if the implement is fabricated with hot formed heads or with cold formed heads that have been stress relieved; and
 - f. Storage containers exceeding six thousand water gallons [22712.4 liters] in capacity must be equipped with a manhole opening.
3. **Minimum requirements for secondhand and reinstalled storage containers other than refrigerated storage containers.**
 - a. American society of mechanical engineers constructed and so stamped;
 - b. National board registered or the manufacturer's data report furnished to the chief boiler inspector;
 - c. Metal specified tensile strength not exceeding seventy-five thousand pounds per square inch [517500 kilopascals];
 - d. Heat treated heads or hot formed heads and this indicated on the manufacturer's data report, in lieu of the entire vessel welds being postweld heat treated; and
 - e. All postconstruction repairs and alterations made only by a valid holder of an "R" certificate of authorization from the national board.
4. **Exception for secondhand and reinstalled storage containers.** Metal specified tensile strength may exceed seventy-five thousand pounds per square inch [517500 kilopascals] for secondhand and reinstalled anhydrous ammonia storage containers when the container is relocated within North Dakota and the container has been wet-fluorescent magnetic particle tested by a qualified firm and any stress corrosion cracking found does not extend beyond the minimum required thickness for original maximum allowable working pressure (MAWP). The minimum required thickness must be determined by code calculation, using the original code of construction. If the stress cracking extends beyond the minimum required, thickness the container cannot be used for anhydrous ammonia service. In all cases, all stress corrosion cracking must be removed.

5. **Requirements for refrigerated storage containers.** Refrigerated storage containers must be constructed in accordance with section 7 of the ~~1989 ANSI K61.1~~ ANSI/CGA G-2.1 standard. All refrigerated ammonia piping used with refrigerated systems must conform to ASME B31.5, American national standard for refrigerated piping.
6. **Hydrostatic test procedures.** Hydrostatic test procedures must comply with the specific requirements of the national board inspection code and be conducted in a manner approved by the agriculture commissioner. At least one calibrated gauge must be used on the container tested. All air must be vented prior to making the test.
7. **Wet-fluorescent magnetic particle test procedures.** Wet-fluorescent magnetic particle test procedures must comply with SNT-TC-1A procedures and the specific requirements of ASME code, section VIII. The person conducting the test must be certified as a level II technician. This test may be witnessed by the agriculture commissioner, at the agriculture commissioner's discretion.
8. **Welded repairs or alterations, or both, to pressure containers.** Welded repairs or alterations, or both, to pressure containers must only be made by a firm in possession of a valid "R" certificate of authorization from the national board of boiler and pressure vessel inspectors.
9. **Requirements for welded piping.** Welders making welds to anhydrous ammonia system piping must be certified in accordance with ASME code, section IX, and must furnish a current QW-484 qualification form upon request. The welder must weld only within the range of the welder's qualifications. Defective weld must be rejected by the agriculture commissioner.
10. **Requirements for reinstalled containers and systems.** When a permanent storage container is moved and reinstalled, all fittings and appurtenances must comply with all requirements for new installations.
11. **Prohibitions.** ~~In addition to the prohibitions covered by North Dakota Century Code section 19-20.2-08.1, the following are prohibited:~~
 - a. ~~Unattended filling of storage containers and nurse tanks;~~
 - b. ~~Making repairs or addition of appurtenances directly to pressurized storage containers and nurse tanks;~~
 - c. ~~Painting or obscuring of ASME data plates on containers;~~
 - d. ~~Painting of hydrostatic, safety and safety relief valves; and~~
 - e. ~~Filling nonrefrigerated storage containers and nurse tanks beyond the filling densities permitted by ANSI K61.1, section 5.9.1.~~
 - f. ~~Using ASTM A 53 type F piping for anhydrous ammonia piping systems.~~

History: Effective July 1, 1996; amended effective April 1, 1998; April 1, 2013; ; XXXX, 2020.

General Authority: NDCC ~~19-20.2-04~~ 4.1-37-01

Law Implemented: NDCC ~~19-20.2-04~~ 4.1-37-01

7-12-01-05. Specific requirements for nonrefrigerated anhydrous ammonia storage facilities.

1. Facility siting requirements:

- a. The siting of the facility must comply with North Dakota Century Code section ~~19-20.2-05~~ 4.1-37-05 and this compliance must be verified by the agriculture commissioner.

- b. The facility must be properly licensed by the board of county commissioners in which the facility is located and by the agriculture commissioner.
 - c. The facility must be accessible to emergency vehicles at all times.
 - d. A facility identification sign must be displayed stating the name, the 911 address, and telephone number of the nearest representative, agent, or owner. An emergency telephone number must also be displayed. This sign must be posted near the entrance of the facility. Letters must be at least two inches [50.8 millimeters] high, and the sign visible from no less than fifty feet [15.24 meters].
2. **Storage container requirements:**
- a. The ASME manufacturer's data report must be provided when requested by the agriculture commissioner should repairs, alterations, or metallurgical data be required.
 - b. The container must be ASME constructed, if installed after November 1, 1987.
 - c. The container must be national board registered, if installed after November 1, 1987. For secondhand and reinstalled storage containers, a manufacturer's data report must be furnished to the agriculture commissioner if the container is not national board registered.
 - d. The condition of the paint shall be such that no more than ten percent of the tank surface is corroded or missing paint.
 - e. Container markings and/or decals must meet the requirements of ~~ANSI K61.4~~ ANSI/CGA G-2.1.
 - f. Postconstruction repairs and alterations, if made, must meet the requirements of the national board inspection code and the proper documentation must be available for inspection if requested by the agriculture commissioner.
 - g. Container fittings, nozzles, and welded seams must be in compliance with the code of construction as judged by the requirements of the national board inspection code.
 - h. Supports and saddles adequately must support the container as required by ~~ANSI K61.4~~ ANSI/CGA G-2.1, and there must be no concentration of excessive loads on the supporting portion of the shell.
 - i. A container liquid level gauge must be installed and be operable.
 - j. A pressure gauge graduated from zero to four hundred pounds per square inch [0 to 2760 kilopascals] and designated for use in anhydrous ammonia service must be installed on the container.
 - k. Safety valve manifolds meeting the requirements of ~~ANSI K61.4~~ ANSI/CGA G-2.1 must be installed between the container and the safety valves required to be installed.
 - l. Container safety valves must be ASME and national board stamped.
3. Container safety valves must be date current and in operable condition.
4. Container safety valves must have rain caps in place.
5. Installed safety valve capacity must comply with appendix B of ~~ANSI K61.4~~ ANSI/CGA G-2.1. The installed capacity must be sufficient with a manifold or manifolds in operation as designed by the manufacturer.
6. **Requirements for piping and appurtenances:**

- a. Excess flow valves must be installed at all tank openings, or in lieu thereof, approved quick-closing internal valves may be installed which, except during operating periods, must remain closed.
- b. Main stop valves must be labeled for anhydrous ammonia service and be in good operating condition.
- c. Main stop valves must be labeled or color coded to indicate liquid or vapor service.
- d. System piping must be at least schedule 40 where welded and schedule 80 where threaded. Threaded and seal welded connections must be at least schedule 80. Piping must be at least ASTM A-53 grade B seamless or electric resistance welded (ERW) pipe. ASTM A-53 type F piping is prohibited.
- e. Welded piping must be welded by an ASME section IX certified welder, and proof of the certification must be available if requested by the agriculture commissioner.
- f. Threaded piping must not be used underground for new installations.
- g. Pipe and pipe fittings must not be cast iron, brass, copper, zinc, or galvanized.
- h. Flexible fittings or expansion joints, or both, must be used where necessary.
- i. Underground piping must be installed using approved corrosion protection.
- j. For new systems, the system piping must be pneumatically or hydraulically pressure tested to 1.1 times the design pressure at the working pressure of the system (275psi) and the integrity of the system proven. A written report of the testing must be retained for a minimum of five years and be furnished to the agriculture commissioner upon request. Underground piping shall be evaluated at a minimum of every five years to ensure leak tightness. To perform the leak test, the underground piping must be isolated and pressurized to two hundred pounds per square inch. The test pressure of two hundred pounds per square inch must be maintained for a minimum of ten minutes. A report of the leak test must be retained for at least five years and furnished to the agriculture commissioner upon request. All tests must be performed with a calibrated gauge.
- k. Approved bulkheads or breakaways, or both, must be provided at nurse tank fill stations. Emergency shutoff valves must be in place on liquid and vapor piping before the bulkhead or breakaways, or both. Approved cables must be connected to the emergency shutoff valves and these cables can be activated both at the valves and at a remote location. Breakaway action will close the valves.
- l. Approved bulkheads ~~and~~ or breakaways or both must be provided at truck unloading stations. There must be an emergency shutoff valve on the vapor piping on the system side of the bulkhead and a backcheck valve is installed on the liquid piping on the system side of the bulkhead. Approved cables must be connected to the emergency shutoff valve and these cables can activate the valve both at the valve and at a remote location.
- m. Date current hydrostatic relief valves must be installed wherever liquid may become trapped between closed valves.
- n. Transfer hoses must be date current and not be weather checked or cut to expose the cords and must comply with all provisions of ANSI/CGA G-2.1 except provision 5.7.10.
- o. Transfer pump, if used, must be rated for anhydrous ammonia service.
- p. A pressure gauge graduated from zero to four hundred pounds per square inch [0 to 2760 kilopascals] and designated for use in anhydrous ammonia service must be installed on the discharge side of the pump, before the bypass piping loop. This gauge must be a liquid filled gauge.
- q. Compressors, if used, must be rated for anhydrous ammonia service.
- r. Approved pressure gauges and stop valves must be installed on the suction and discharge sides of the compressor.

- s. An approved date current pressure relief valve of sufficient capacity must be installed on the discharge side of the compressor prior to any shutoff valve.
- t. Locks and lock boxes must be installed on the main system stop valves, when the facility is unattended.
- u. The system must be leak free in operation.
- v. Adequate provisions for protection of exposed piping and appurtenances from moving vehicles at the facility must be in place.
- w. Loading platforms or other equivalent method must be used to allow safe filling of nurse tanks. Climbing on tires is not permitted for filling nurse tanks.
- x. ~~For facilities installed after January 1, 1998, b~~Bleeder valves must be installed at truck unloading stations to relieve pressure prior to connecting or disconnecting the truck transfer hoses. The bleeder hoses must be vented to a suitable closed water container.
- y. Excess flow protection is required for nurse tank filling station risers to shut down ammonia flow should a transfer hose break or a pull-away occur. Storage facilities utilizing bulkheads with emergency shutoff valves below the bulkhead must install the required excess flow valves integral with the riser shutoff valves or as in-line excess flow valves. For these systems, an approved installed location cable must be used between the emergency shutoff valve actuator and the riser shutoff valve. Storage facilities utilizing breakaway devices with positive closure must install excess flow valves integral with the riser shutoff valve or as an approved in-line excess flow valve installed prior to the positive closure device. The installer must verify the operation of any excess flow valve covered by this section. ~~The effective date of this section is July 1, 2006.~~

4. Requirements for safety equipment:

- a. The following personal safety equipment must be available at a readily accessible location:
 - (1) ~~Two full face gas masks with spare, date current ammonia cannisters, or two approved self-contained breathing apparatuses suitable for ammonia; A minimum of two emergency escape-only respirators shall be provided at a prominent and marked location at the storage facility. The escape-only respirator and training shall be in compliance with title 29 Code of Federal Regulations part 1910.134 section 12;~~
 - (2) One pair of protective gloves impervious to ammonia for each of the maximum number of employees that may be storing, handling, transferring, or otherwise working with anhydrous ammonia at the same time, plus one spare pair;
 - (3) Chemical splash goggles that are ANSI Z87.1-1989 rated; or chemical splash goggles with full face shield to be worn over the goggles for each of the maximum number of employees that may be storing, handling, transferring, or otherwise working with anhydrous ammonia at the same time, plus at least one spare pair;
 - (4) One pair of protective boots impervious to ammonia;
 - (5) One "slicker suit" impervious to ammonia;
 - (6) Safety shower or open top container holding at least one hundred fifty gallons [567.8 liters] of clean water; and
 - (7) One class C fire extinguisher or class C-compatible fire extinguisher.
- b. A telephone, or other method of communication, is required to be on location at each anhydrous ammonia storage facility during transfer operations.

History: Effective July 1, 1996; amended effective April 1, 1998; April 1, 2013- ; XXXX, 2020.

General Authority: NDCC ~~49-20.2-04~~ 4.1-37-01

Law Implemented: NDCC ~~49-20.2-04~~ 4.1-37-01

7-12-01-06. Specific requirements for nurse tanks.

1. The ASME manufacturer's data report must be provided, if requested by the agriculture commissioner, should repairs or alterations become necessary.
2. The container must be ASME constructed, if installed after November 1, 1987.
3. The container must be national board registered, if installed after November 1, 1987.
4. The data plate must be readable and not painted over or obscured.
5. The condition of the paint shall be such that no more than ten percent of the tank surface is corroded or missing paint. Tanks must be painted white or aluminum.
6. Container markings and decals must meet the requirements of ~~ANSI K61.4~~ ANSI/CGA G-2.1-2014:
 - a. "1005" department of transportation decal must be in place on sides and heads.
 - b. "ANHYDROUS AMMONIA" decal must be in place on sides and heads.
 - c. "INHALATION HAZARD" decal must be in place on each side.
 - d. Legible transfer and safety decals must be in place.
 - e. A legible decal depicting first-aid procedures to follow if injured by ammonia.
7. The container must be numbered and identified with the name and contact information of the owner.
8. A department of transportation-approved slow moving vehicle sign must be in place and in good condition.
9. Postconstruction repairs and alterations, if made, must meet the requirements of the national board inspection code and the proper documentation must be available for inspection if requested by the agriculture commissioner.
10. Container fittings, nozzles, and welded seams must be in compliance with the code of construction as judged by the requirements of the national board inspection code.
11. A container liquid level gauge must be installed and must be operable.
12. A pressure gauge graduated from zero to four hundred pounds per square inch [0 to 2760 kilopascals] and designated for use in anhydrous ammonia service must be installed on the container.
13. Container safety valves must be ASME and national board stamped.
14. Container safety valves must be date current and in operable condition.
15. Container safety valves must have rain caps in place.
16. The transfer hose, if installed, must be date current and not be weather checked or cut to expose the cords. If the transfer hose is not installed on the nurse tank, an approved male "ACME" type fitting with protective dust cap must be installed on the liquid withdrawal valve.
17. An "ACME" type fitting must be used to secure the transfer hose.
18. Protective gloves and Z87 rated goggles must be in a safety kit attached to the container ~~or assigned to each nurse tank when the container is filled. If the gloves and goggles are assigned, a record of this assignment must be maintained at the office of the facility.~~ the frame of the wagon.

19. Five gallons [18.93 liters] of clean water in a container must be carried on the nurse tank at all times while the tank is in service.
20. A hydrostatic relief valve or approved built-in hydrostatic relief must be installed at the main liquid stop valve. This hydrostatic relief valve must be date current and equipped with a rain cap.
21. Protective caps must be in place for the main liquid and vapor connections.
22. Excess flow valves must be in place on the liquid and vapor connections at the tank. Excess flow valves may be incorporated into the main stop valves on the tank.
23. The wagon tires must be in a safe and serviceable condition, with no cords showing, and a tread of at least two-thirty-secondths of an inch.
24. The wagon must be equipped with two suitable safety chains and a hitch pin.
25. The wagon tongue and undercarriage must be in a condition to provide safe transport.
26. The pressure vessel and appurtenances must be leak free in service.
27. Fittings and safety valves must be protected from physical damage, such as rollover, by roll cages or other protective devices.
28. An implement of husbandry may be fabricated from steel having a specified tensile strength not to exceed seventy-five thousand pounds per square inch [517110 kilopascals].

History: Effective July 1, 1996; amended effective April 1, 1998; June 1, 2005; April 1, 2013; : XXXX, 2020.

General Authority: NDCC ~~49-20.2-044.1-37-01~~

Law Implemented: NDCC ~~49-20.2-044.1-37-01~~

7-12-01-07. Documented training.

1. Any person handling, transferring, transporting, or otherwise working with anhydrous ammonia at anhydrous ammonia storage facilities must be competent in safe operating practices and be able to take appropriate actions when faced with minor leaks as well as with emergency conditions.
2. Any person making, breaking, or testing any ammonia connection, transferring ammonia, or performing maintenance or repair on an ammonia system under pressure, at anhydrous ammonia storage facilities, must wear protective gloves and chemical splash goggles.
3. Documented training must occur initially and then at intervals of not less than once per year for those persons handling, transferring, transporting, or otherwise working with anhydrous ammonia at anhydrous ammonia storage facilities. Documentation must consist of signed forms indicating the type of training, the date the training occurred, the persons trained, and the supervisor or training coordinator. Signed forms must be kept on file for at least three years and made available for review by the agriculture commissioner during normal business hours.
4. Training may include audio and video media, demonstrations and lectures, but must include actual hands-on training for those persons initially required to handle, transfer, transport, or otherwise work with ammonia at anhydrous ammonia storage facilities. The type and amount of training must be consistent with the duties and responsibilities of the person at a particular storage facility. Personnel must be trained for and designated to act in emergency conditions.

History: Effective July 1, 1996; amended effective April 1, 2013-: XXXX, 2020.

General Authority: NDCC ~~49-20-2-014.1-37-01~~

Law Implemented: NDCC ~~49-20-2-014.1-37-01~~

7-12-01-08. Alternate procedures for transferring anhydrous ammonia directly from cargo tanks to nurse tanks. Requirements for downloading anhydrous ammonia from a mobile storage container into a nurse tank.

1. Cargo tanks used as mobile storage containers must have current United States department of transportation certification and container labeling and proof of such certification must be furnished to the agriculture commissioner initially and within thirty days of the recertifications required by the department of transportation.
2. Adequately sized wheel chocks must be used to prevent movement of both nurse tanks and cargo tanks prior to the start of any transfer operations.
3. Cargo tanks must have all safety equipment required by ~~ANSI K61.1-1989~~ ANSI/CGA G-2.1-2014:
 - a. At least five gallons [18.93 liters] of clean water in a container;
 - b. One pair of protective gloves impervious to ammonia;
 - c. A full facepiece gas mask with an ammonia canister and at least one spare canister; and
 - d. Chemical splash goggles.
4. Nurse tanks must be equipped with all safety equipment required by ~~ANSI K61.1-1989~~ ANSI/CGA G-2.1-2014:
 - a. At least five gallons [18.93 liters] of clean water in a container;
 - b. A legible decal depicting step-by-step ammonia transfer instructions; and
 - c. A legible decal depicting first-aid procedures to follow if injured by ammonia.
5. Transfer operations must take place:
 - a. Only on firm, well-prepared, level surfaces;
 - b. Only during daylight hours, or with proper lighting;
 - c. Only on the owner's or consignee's own property, to include rented or leased property;
 - d. At least fifty feet [15.24 meters] from the line of any adjoining property which may be built upon, or any highway or railroad mainline;
 - e. At least four hundred fifty feet [137.16 meters] from any place of public assembly or residence;
 - f. At least seven hundred fifty feet [228.6 meters] from any institutional residence; and
 - g. No closer than one mile [1.61 kilometers] from any city limits.
6. Transfer operations that transfer anhydrous ammonia directly from a bulk delivery vehicle to a separate cargo tank not connected to a truck are prohibited. ~~Transfer operations must be from the bulk delivery vehicle directly to nurse tanks.~~
7. ~~Initial written notification of intent to transfer anhydrous ammonia from any cargo tank to nurse tanks shall be given to the agriculture commissioner, the board of county commissioners, and the county emergency manager in the county in which transfer operations will take place. This notification must thereafter be made at least thirty days prior to the proposed date of transfer, or on a seasonal basis, prior to March first for the spring-summer season and September first for the fall season. This notification must be made by the owner or the consignee.~~

8. Designated downloading sites must be approved by local jurisdictions prior to licensing. Any additional siting or emergency response requirements of the local jurisdiction (county and township) must be complied with fully.
9. Systems mounted on trucks, semitrailers, and trailers for transportation of ammonia shall follow the requirements of CGA G-2.1-2014 as well as all United States Department of Transportation requirements and shall be connected to a mode of transportation while in use.
10. Mobile storage containers shall not be used for permanent anhydrous ammonia storage.

History: Effective July 1, 1996; amended effective April 1, 1998; June 1, 2005; April 1, 2013-; ~~XXXX~~, 2020.

General Authority: ~~NDCC 49-20.2-044.1-37-01~~

Law Implemented: ~~NDCC 49-20.2-044.1-37-01~~

ARTICLE 7-16
COMMERCIAL FEED

Chapter

<u>7-16-01</u>	<u>Definition and Terms</u>
<u>7-16-02</u>	<u>Label Format</u>
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<u>7-16-08</u>	<u>Directions for Use and Precautionary Statements</u>
<u>7-16-09</u>	<u>Non-Protein Nitrogen</u>
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<u>7-16-11</u>	<u>Adulterants</u>

Section

7-16-01-01 Definition and Terms

7-16-01-01. Definition and Terms

1. The names and definitions for commercial feeds shall be the official definition of feed ingredients adopted by the association of American feed control officials except as otherwise designated by the agriculture commissioner in specific cases.
2. The terms used in reference to commercial feeds shall be the official feed terms adopted by association of American feed control officials expect as otherwise designated by the agriculture commissioner in specific cases.
3. The following commodities are exempt from the definition of commercial feed: raw meat, raw poultry, hay, loose straw, stover, silages, cobs, husks, and hulls or grain screenings when unground and when not mixed or intermixed with other materials provided that these commodities are not adulterated within the meaning of North Dakota Century Code 4.1-41-11.
4. Principal display panel means the out-facing side of the feed tag. If there is no tag, principal display panel means the label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

History: Effective XXXXX, 2020

General Authority: NDCC 4.1-41-20

Law Implemented: 4.1-41-01

Section

16-02-01

Label Format

7-16-02-01. Label Format.

1. Label information as required in North Dakota Century Code 4.1-41-06 is to be placed as follows:
 - a. The information required in subsections 1 and 2 of North Dakota Century Code 4.1-41-06 and a purpose statement must appear in its entirety on the principal display panel.
 - b. The information required in sections 3, 4, 5, 6, and 7 of North Dakota Century Code 4.1-41-06 shall be displayed in a prominent place on the feed tag or label, but not necessarily on the principal display panel. When a precautionary statement is required but does not appear on the principal display panel, it must be referenced on the principal display panel with a statement such as "see back of label for precautions."
 - c. None of the information required to appear on the label shall be subordinated or obscured by other statements or designs.

History: Effective XXXXX, 2020

General Authority: NDCC 4.1-41-20

Law Implemented: 4.1-41-06

Section

7-16-03-01 Label Information

7-16-03-01. Label Information.

1. Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed by North Dakota Century Code 4.1-41-06.
 - a. Product name and brand name if any
 - i. The brand or product name must be appropriate for the intended use of the feed and must not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform to that use. A commercial feed for a particular animal class must be suitable for that purpose.
 - ii. Commercial, registered brand, or trade names are not permitted in guarantees or ingredient listings and only in the product name of feeds produced by or for the firm holding the rights to such a name.
 - iii. The name of a commercial feed shall not be derived from one or more ingredients of a mixture to the exclusion of other ingredients and 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.
 - iv. The word "protein" shall not be permitted in the product name of a feed that contains added non-protein nitrogen.
 - v. When the name carries a percentage value, it shall be understood to signify protein content or protein equivalent content, or both even though it may not explicitly modify the percentage with the word "protein" provided that other percentage values may be permitted if they are followed by the proper description and conform to good labeling practice. Digital numbers shall not be used in such a manner as to be misleading or confusing to the customer.
 - vi. Single ingredient feeds shall have a product name in accordance with the designated definition of feed ingredients as recognized by the association of American feed control officials unless the agriculture commissioner designates otherwise.
 - vii. The word "vitamin," or a contraction of vitamin, or any word suggesting vitamin can be used only in the name of a feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared as specified in this rule.
 - viii. The term "mineralized" shall not be used in the name of a feed except for "trace mineralized salt." When so used, the product must contain significant amounts of trace minerals which are recognized as essential for animal nutrition.
 - ix. The term "meat" and "meat by-products" shall be qualified to designate the animal from which the meat and meat by-products are derived unless the meat and meat by-products are made from cattle, swine, sheep, and goats.

- b. If a drug is used:
- i. The word "medicated" shall appear directly following and below the product name in type size, no smaller than one-half the type size of the product name;
 - ii. Purpose statement as required in this section;
 - iii. The purpose of the medication; and
 - iv. An active ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with these rules.
- c. Purpose Statement
- i. The statement of purpose shall contain the specific species and animal class for which the feed is intended as defined in these rules.
 - ii. The manufacturer shall have flexibility in describing in more specific and common language the defined animal class, species, and purpose while being consistent with the category of animal class defined in these rules which may include weight range, sex, or age of animal for which the feed is manufactured.
 - iii. The purpose statement may be excluded from the label if the product name includes a description of the species and animal class for which the product is intended.
 - iv. 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.
 - v. 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.
 - vi. The purpose statement of a product shall include a statement of enzyme functionality if enzymatic activity is represented in any manner.
 - vii. 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 the flexibility in describing in more specific and common language the intended use of the feed ingredient dependent on species and class.
- d. Guarantees shall be stated 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.
- e. Other required and voluntary guarantees shall follow a general format such that the units of measure used to express guarantees are listed in a sequence that provides a consistent grouping of the units of measure.

- f. Feed ingredients, collective terms for the grouping of feed ingredients or appropriate statements as provided under the provisions of North Dakota Century Code 4.1-41-06.
 - i. The name of each ingredient as defined in the official publication of the association of American feed control officials, common or usual name, or one approved by the agriculture commissioner.
 - ii. 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, provide that
 - 1. 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
 - 2. The manufacturer shall provide the feed control official 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 upon request.
- g. Directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by this rule appear elsewhere on the label.
- h. Name and principal mailing address of the manufacturer or person responsible for distributing the feed. The principal mailing address shall include the street address, city, state, zip code. The street address may be omitted if it is shown in the current city directory or telephone directory.
- i. Quantity statement
 - i. Net quantity shall be declared in terms of weight, liquid measure, or count based on applicable requirements under section 4 of the fair packaging and labeling act.
 - ii. Net quantity labeled in terms of weight shall be expressed both in pounds, with any remainder in terms of ounces or common decimal fractions of the pound and in appropriate metric system units. In the case of liquid measure, both in the largest whole unit with any remainder in terms of fluid ounces, or common decimal fractions of the pint or quart and in appropriate metric system units.
 - iii. When the declaration of quantity of contents by count does not give adequate information as to the quantity of feed in the container, it shall be combined with such statement of weight, liquid measure, or size of the individual units as will provide such information.

History: Effective XXXXX, 2020

General Authority: NDCC 4.1-41-20

Law Implemented: 4.1-41-06

Section

7-16-04

Required Guarantees by Animal Class

7-16-04-01. Required Guarantees by Animal Class

1. Required guarantees for swine formula feeds

a. Animal classes

- i. Prestarter - 2 to 11 pounds
- ii. Starter - 11 to 44 pounds
- iii. Grower - 44 to 110 pounds
- iv. Finisher - 110 pounds to market weight
- v. Gilts, sows, and adult boars
- vi. Lactating gilts and sows

b. Guaranteed analysis for all animal classes for swine complete feeds and supplements

- i. Minimum percentage of crude protein
- ii. Minimum percentage of lysine
- iii. Minimum percentage of crude fat
- iv. Maximum percentage of crude fiber
- v. Minimum and maximum percentage of calcium
- vi. Minimum percentage of phosphorus
- vii. Minimum and maximum percentage of salt if added
- viii. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds the maximum salt guarantee
- ix. Minimum selenium in parts per million.

2. Required guarantees for formula poultry feeds for broilers, layers, and turkeys

a. Animal classes

i. Layer - chickens that are grown to produce eggs for food

1. Starting or growing - from day of hatch to approximately ten weeks of age.
2. Finisher - from approximately ten weeks of age to the time the first egg is produced, approximately twenty weeks of age.
3. Laying - from the time the first egg is laid throughout the time of egg production.
4. Breeders - chickens that produce fertile eggs for hatching replacement layers to produce eggs for food from the time the first egg is laid throughout their productive cycle.

ii. Broiler - chickens that are grown for human food

1. Starting or growing - from day of hatch to approximately five weeks of age.
2. Finisher - from approximately five weeks of age to market, forty-two to fifty-two days.
3. Breeders - hybrid strains of chickens of any age and either sex, whose offspring are grown for human food.

iii. Broilers, breeders - chickens whose offspring are grown for human food

1. Starting or growing - from day of hatch until approximately ten weeks of age.
2. Finishing - from approximately ten weeks of age to time the first egg is produced, approximately twenty weeks of age.
3. Laying - fertile, egg producing chickens from the day of first egg throughout the time fertile eggs are produced.

iv. Turkeys

1. Starting or growing - turkeys that are grown for human food from day of hatch to approximately thirteen weeks of age for hens and sixteen weeks of age for toms.
2. Finisher - turkeys that are grown for human food, hens from approximately thirteen weeks of age to approximately seventeen weeks of age; males from sixteen weeks of age to twenty weeks of age; or desired market weight.
3. Laying - female turkeys that are producing eggs; from the time the first egg is produced throughout the time of egg production.
4. Breeder - turkeys of both sexes that are grown to produce fertile eggs; from day of hatch to the time the first egg is produced, approximately thirty weeks of age.

b. Guaranteed analysis for all animal classes for poultry complete feeds and supplements

- i. Minimum percentage of crude protein
- ii. Minimum percentage of lysine
- iii. Minimum percentage of methionine
- iv. Minimum percentage of crude fat
- v. Maximum percentage of crude fiber
- vi. Minimum and maximum percentage of calcium
- vii. Minimum percentage of phosphorus
- viii. Minimum and maximum percentage of salt if added
- ix. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds the maximum salt guarantee

3. Required guarantees for beef cattle formula feeds

a. Animal classes

- i. Calves from birth to weaning
- ii. Cattle on pasture may be specific as to production stage; for example, stocker, feeder, replacement heifers, brood cows, bulls, etc.
- iii. Feedlot cattle

b. Guaranteed analysis for all animal classes for beef complete feeds and supplements

- i. Minimum percentage of crude protein
- ii. Maximum percentage of equivalent crude protein from non-protein nitrogen when added
- iii. Minimum percentage of crude fat
- iv. Maximum percentage of crude fiber
- v. Minimum and maximum percentage of calcium
- vi. Minimum percentage of phosphorus
- vii. Minimum and maximum percentage of salt if added
- viii. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds the maximum salt guarantee
- ix. Minimum percentage of potassium
- x. Minimum vitamin A, other than precursors of vitamin A, in international units per pound if added.

- c. Guaranteed analysis for beef mineral feeds if added
 - i. Minimum and maximum percentage of calcium
 - ii. Minimum percentage of phosphorus
 - iii. Minimum and maximum percentage of salt
 - iv. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds the maximum salt guarantee
 - v. Minimum percentage of magnesium
 - vi. Minimum percentage of potassium
 - vii. Minimum copper in parts per million
 - viii. Minimum selenium in parts per million
 - ix. Minimum zinc in parts per million
 - x. Minimum vitamin A, other than precursors of vitamin A, in international units per pound.

4. Required guarantees for dairy formula feeds

a. Animal classes

- i. Veal milk replacer
- ii. Herd milk replacer
- iii. Starter
- iv. Non-lactating dairy cattle
 - 1. Replacement dairy heifers,
 - 2. Dairy bulls, and
 - 3. Dairy calves
- v. Lactating dairy cows
- vi. Dry dairy cows

b. Guaranteed analysis for veal and heard replacement milk replacer

- i. Minimum percentage of crude protein
- ii. Minimum percentage of crude fat
- iii. Maximum percentage of crude fiber
- iv. Minimum and maximum of percentage calcium
- v. Minimum percentage of phosphorus
- vi. Minimum vitamin A, other than precursors of vitamin A, in international units per pound if added

c. Guaranteed analysis for dairy cattle complete feeds and supplements

- i. Minimum percentage of crude protein
- ii. Maximum percentage of equivalent crude protein from non-protein nitrogen when added
- iii. Minimum percentage of crude fat
- iv. Maximum percentage of crude fiber
- v. Maximum percentage of acid detergent fiber
- vi. Minimum and maximum percentage of calcium
- vii. Minimum percentage of phosphorus
- viii. Minimum selenium in parts per million
- ix. 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
 - i. Minimum and maximum percentage of calcium
 - ii. Minimum percentage of phosphorus
 - iii. Minimum and maximum percentage of salt
 - iv. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds the maximum salt guarantee
 - v. Minimum percentage of magnesium
 - vi. Minimum percentage of potassium
 - vii. Minimum selenium in parts per million
 - viii. Minimum vitamin A, other than the precursors of vitamin A, in international units per pound

5. Required guarantees for equine formula feeds

- a. Animal classes
 - i. Growing
 - ii. Broodmare
 - iii. Maintenance
 - iv. Performance, including stallions
- b. Guaranteed analysis for all animal classes for equine complete feeds and supplements
 - i. Minimum percentage of crude protein
 - ii. Minimum percentage of crude fat
 - iii. Maximum percentage of crude fiber
 - iv. Maximum percentage of acid detergent fiber
 - v. Maximum percentage of neutral detergent fiber
 - vi. Minimum and maximum percentage of calcium
 - vii. Minimum percentage of phosphorus
 - viii. Minimum copper in parts per million, if added
 - ix. Minimum selenium in parts per million
 - x. Minimum zinc in parts per million
 - xi. Minimum vitamin A, other than the precursors of vitamin A, in international units if added
- c. Guaranteed analysis for all animal classes for equine mineral feeds
 - i. Minimum and maximum percentage of calcium
 - ii. Minimum percentage of phosphorus
 - iii. Minimum and maximum percentage of salt if added
 - iv. Minimum and maximum percentage of sodium
 - v. Minimum copper in parts per million if added
 - vi. Minimum selenium in parts per million
 - vii. Minimum zinc in parts per million
 - viii. Minimum vitamin A, other than precursors of vitamin A, in international units per pound if added.

6. Required guarantees for goat formula feeds

a. Animal classes

- i. Starter
- ii. Grower
- iii. Finisher
- iv. Breeder
- v. Lactating

b. Guaranteed analysis for all animal classes for goat complete feeds and supplements

- i. Minimum percentage of crude protein
- ii. Maximum percentage of equivalent crude protein from non-protein nitrogen when added
- iii. Minimum percentage of crude fat
- iv. Maximum percentage of crude fiber
- v. Minimum and maximum percentage of acid detergent fiber
- vi. Minimum and maximum percentage of calcium
- vii. Minimum percentage of phosphorus
- viii. Minimum and maximum percentage of salt, if added
- ix. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee
- x. Minimum and maximum copper in parts per million, if added
- xi. Minimum selenium in parts per million
- xii. Minimum vitamin A, other than precursors of vitamin A, in international units, if added

7. Required guarantees for sheep formula feeds

a. Animal classes

- i. Starter
- ii. Grower
- iii. Finisher
- iv. Breeder
- v. Lactating

b. Guaranteed analysis for all animal classes for sheep complete feeds and supplements

- i. Minimum percentage of crude protein
- ii. Maximum percentage of equivalent crude protein from non-protein nitrogen when added
- iii. Minimum percentage of crude fat
- iv. Maximum percentage of crude fiber
- v. Minimum and maximum percentage of calcium
- vi. Minimum percentage of phosphorus
- vii. Minimum and maximum percentage of salt, if added
- viii. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds the maximum salt guarantee
- ix. Minimum and maximum copper in parts per million, if added or if total copper exceeds twenty parts per million
- x. Minimum selenium in parts per million
- xi. Minimum vitamin A, other than precursors of vitamin A, in international units per pound, if added

8. Required guarantees for duck and geese formula feeds

a. Animal classes

i. Ducks

1. Starter - 0 to 3 weeks of age
2. Grower - 3 to 6 weeks of age
3. Finisher - 6 weeks to market
4. Breeder developer - 8 to 19 weeks of age
5. Breeder - 22 weeks to end of lay

ii. Geese

1. Starter - 0 to 4 weeks of age
2. Grower - 4 to 8 weeks of age
3. Finisher - 8 weeks to market
4. Breeder developer - 10 to 22 weeks of age
5. Breeder - 22 weeks to end of lay

b. Guaranteed analysis for all classes for duck and geese complete feeds and supplements

- i. Minimum percentage of crude protein
- ii. Minimum percentage of crude fat
- iii. Maximum percentage of crude fiber
- iv. Minimum and Maximum percentage of calcium
- v. Minimum percentage of phosphorus
- vi. Minimum and maximum percentage of salt if added
- vii. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds the maximum salt guarantee

9. Required guarantees for fish complete feeds and supplements

a. Animal species shall be declared in lieu of animal class

- i. Trout
- ii. Catfish
- iii. Species other than trout or catfish

b. Guaranteed analysis for fish complete feeds and supplements

- i. Minimum percentage of crude protein
- ii. Minimum percentage of crude fat
- iii. Maximum percentage of crude fiber
- iv. Minimum percentage of phosphorus

10. Required guarantees for rabbit complete feeds and supplements

a. Animal classes

- i. Grower - 4 to 12 weeks of age
- ii. Breeder - 12 weeks of age and over

b. Guaranteed analysis for all classes for rabbit complete feeds and supplements

- i. Minimum percentage of crude protein
- ii. Minimum percentage of crude fat
- iii. Minimum and maximum percentage of crude fiber
 1. Maximum crude fiber shall not exceed the minimum by more than five units
- iv. Minimum and maximum percentage of calcium
- v. Minimum percentage of phosphorus
- vi. Minimum and maximum percentage of salt if added
- vii. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds the maximum salt guarantee
- viii. Minimum vitamin A, other than precursors of vitamin A, in international units per pound if added

11. The required guarantees of grain mixtures with or without molasses and feeds other than those described in this rule shall include the following items in the order listed:
- a. Animal class and species for which the product is intended
 - b. Guaranteed analysis
 - i. Minimum percentage crude protein
 - ii. Maximum or minimum percentage of equivalent crude protein from non-protein nitrogen
 - iii. Minimum percentage of crude fat
 - iv. Maximum percentage of crude fiber
 - v. Minerals in formula feeds in the following order:
 1. Minimum and maximum percentages 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 the maximum salt guarantee
 5. Other minerals
 - vi. Minerals in feed ingredients as specified by the official definitions of the association of American feed control officials
 - vii. Vitamins in such terms as specified in this rule
 - viii. Total sugars as invert on dried molasses products or products being sold primarily for their sugar content
 - ix. Viable lactic acid producing microorganisms for use in silages in terms specified in this rule
 - x. A commercial feed intended to provide a specialized nutritional source for use in the manufacture of other feeds, must state the intended purpose and guarantee the relevant nutrients.
12. Exemptions
- a. A mineral guarantee for feed, excluding those feeds manufactured as complete feeds and for feed supplements intended to be mixed with grain to produce a complete feed for swine, poultry, fish, and veal and herd milk replacers is not required when
 - i. The feed or feed ingredient is not intended or represented or does not serve as a principal source of that mineral to the animal; or
 - ii. The feed or feed ingredient is intended for non-food producing animals and contains less than six and a half percent total mineral
 - b. Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement
 - c. Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements, and molasses
 - d. Guarantees for microorganisms are not required when the commercial feed is intended for a purpose other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, and no specific label claims are made
 - e. The indication for animal class and species is not required on single ingredient products if the ingredient is not intended, represented, or defined for a specific animal class or species.

History: Effective XXXXX, 2020

General Authority: NDCC 4.1-41-20

Law Implemented: 4.1-41-06

7-16-05-01. Expression of Guarantees

1. The guarantees for crude protein, equivalent crude protein from non-protein nitrogen, lysine, methionine, other amino acids, crude fat, crude fiber, and other fiber indicators shall be in terms of percentage.
2. Mineral guarantees
 - a. When the calcium, salt, and sodium guarantees are given in the guaranteed analysis, such shall be stated and conform to the following:
 - i. When the minimum is below two and one half percent, the maximum shall not exceed the minimum by more than one half percentage point.
 - ii. When the minimum is two and one half percent but less than five percent, the maximum shall not exceed the minimum by more than one percentage point.
 - iii. When the minimum is above five percent or greater, the maximum shall not exceed the minimum by more than twenty percent of the minimum and in no case shall the maximum exceed the minimum by more than five percentage points.
 - 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 mineral guarantees shall be stated in parts per million when the concentration is less than ten thousand parts per million and in percentage when the concentration is ten thousand parts per million or greater.
 - c. Products labeled with a quantity statement may state mineral guarantees in milligrams per unit consistent with the quantity statement and directions for use.
3. Guarantees for minimum vitamin content of commercial feeds shall be listed in the order specified and are stated in milligrams per pound or in units consistent with those used for the quantity statement unless otherwise specified.
 - a. Vitamin A, other than precursors of vitamin A, in international units per pound.
 - b. Vitamin D-3 in products offered for poultry feeding, in international chick units per pound.
 - c. Vitamin D for other uses, international units per pound.
 - d. Vitamin E, in international units per pound.
 - e. Concentrated oils and feed additive premixes containing vitamins A, D, E or any combination thereof may, at the option of the distributor be stated in units per gram instead of units per pound.
 - f. Vitamin B-12, in milligrams or micrograms per pound.
 - 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; biotine; inositol; p-amino benzoic acid; ascorbic acid; and carotene.

4. Guarantees for drugs shall be stated in terms of percent by weight, except:
 - a. Antibiotics present at less than two thousand grams per ton, total, of commercial feed shall be stated in grams per ton of commercial feed.
 - b. Antibiotics present at two thousand or more grams per ton, total, of commercial feed shall be stated in grams per pound of commercial feed.
 - c. Labels for commercial feeds containing either growth promotion, or feed efficiency levels of non-medically important antibiotics, or both, which are to be fed continuously as the sole ration, are not required to make quantitative guarantees except as specifically noted in the federal food additive regulations for certain antibiotics, where quantitative guarantees are required regardless of the level or purpose of the antibiotic.
 - 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.
5. Commercial feeds containing any added non-protein nitrogen shall be labeled as follows:
 - a. For ruminants
 - i. Complete feeds, supplements, and concentrates containing added non-protein nitrogen and containing more than five percent protein from natural sources shall be guaranteed as follows: crude protein, minimum, (insert percent). This includes not more than (insert percent) equivalent crude protein from non-protein nitrogen.
 - ii. Mixed feed concentrates and supplements containing less than five percent protein from natural sources may be guaranteed as follows: equivalent crude protein from non-protein nitrogen, minimum (insert percent).
 - iii. Ingredient sources of non-protein nitrogen such as urea, diammonium phosphate, ammonium phosphate 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 (insert percent), equivalent crude protein from non-protein nitrogen, minimum (insert percent).
 - b. For non-ruminants
 - i. 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 (insert percent). This includes not more than (insert percent) equivalent crude protein which is not nutritionally available to (species of animal for which the feed is intended).
 - ii. Premixes, concentrates, or supplements intended for non-ruminants containing more than one and one quarter percent equivalent crude protein from all forms of non-protein nitrogen, added as such, must contain adequate directions for use and a prominent statement:
 1. **WARNING: This feed must be used only in accordance with directions furnished on the label**
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.
7. Guarantees for microorganisms shall be stated in colony forming units per gram when directions are for using the product in grams, or in colony forming units per pound when directions are for using the product in pounds. A parenthetical statement following the guarantee shall list each species in order of predominance.

8. Guarantees for enzymes shall be stated in units of enzymatic activity per unit weight or volume, consistent with label directions. 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.
9. Guarantees for dietary starch, sugars, and fructans for commercial feeds, other than customer-formula feed, pet food, and specialty pet food products:
- a. A commercial feed which bears one its labeling a claim in any manner for levels of "dietary starch," "sugars," "fructans," or words of similar designation, shall include on the label:
 - i. Guarantees for maximum percentage of dietary starch and maximum percentage sugars, in the guaranteed analysis section immediately following the last fiber guarantee.
 - ii. A maximum percentage guarantee for fructans immediately following sugars, if the feed contains forage products.
 - 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.

History: Effective XXXXX, 2020

General Authority: NDCC 4.1-41-20

Law Implemented: 4.1-41-06

Section

7-16-06 Substantiation of Nutritional Suitability

7-16-06-01. Substantiation of Nutritional Suitability

1. A commercial feed, other than a customer-formula feed, shall be nutritionally suitable for its intended purpose as represented by its labeling.
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.
3. If an Affidavit of Suitability, or alternative procedure acceptable to the commissioner is not submitted by the feed manufacturer within thirty days of written notification, the commissioner may deem the feed adulterated under this rule and order the feed removed from the marketplace.
4. The Affidavit of Suitability shall contain the following information:
 - a. The feed company's name;
 - b. The product name of the feed;
 - c. The name and title of the affiant submitting the document;
 - 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;
 - e. The date of submission; and
 - f. The signature of the affiant notarized by a certified Notary Public.

History: Effective XXXXX, 2020

General Authority: NDCC 4.1-41-20

Law Implemented: 4.1-41-06

Section

7-16-07

Ingredients

7-16-07-01. Ingredients.

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 agriculture commissioner.
2. The name of each ingredient must be shown in letters or type of the same size.
3. No reference to quality or grade of an ingredient shall appear in the ingredient statement of a feed.
4. The term "dehydrated" may precede the name of any product that has been artificially dried.
5. A single ingredient product defined by the association of American feed control officials is not required to have an ingredient statement.
6. Tentative definitions for ingredients shall not be used until adopted as official unless no official definition exists or the ingredient has a common accepted name that requires no definition.
7. When the word "iodized" is used in connection with a feed ingredient, the feed ingredient shall contain not less than seven thousandths of one percent iodine, uniformly distributed.

History: Effective XXXXX, 2020

General Authority: NDCC 4.1-41-20

Law Implemented: 4.1-41-06

Section
7-16-08

Directions for Use and Precautionary Statements

7-16-08-01. Directions for Use and Precautionary Statements.

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 shall:
 - 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,
 - b. Include all information described by all applicable regulations under the federal food, drug, and cosmetic act.
2. Adequate directions for use and precautionary statements are required for feeds containing non-protein nitrogen as specified in these rules.
3. Adequate directions for use and precautionary statements necessary for safe and effective use are required on commercial feeds distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound..

History: Effective XXXXX, 2020

General Authority: NDCC 4.1-41-20

Law Implemented: 4.1-41-06

Section

7-16-09

Non-Protein Nitrogen

7-16-09-01. Non-Protein Nitrogen.

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 eight and three quarters percent of equivalent crude protein from all forms of non-protein nitrogen, added as such, or 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."
 - a. The directions for use and the caution statement shall be in type of such size so placed on the label that they will be read and understood by ordinary persons under customary conditions of purchase and use.
 - b. Non-protein nitrogen defined in the official publication of the association of American feed control officials, when so 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 one and one quarter percent of the total daily ration.
 - c. On labels such as those for medicated feeds which bear either adequate feeding directions, or warning statements, or both; the presence of added non-protein nitrogen shall not require a duplication of the feeding directions or the precautionary statements as long as those statements include sufficient information to ensure the safe and effective use of this product due to the presence of non-protein nitrogen.

History: Effective XXXXX, 2020

General Authority: NDCC 4.1-41-20

Law Implemented: 4.1-41-06

Section

7-16-10

Drugs and Additives in Feed

7-16-10-01. Drugs and Additives in Feed.

1. Prior to approval of either a registration application, or approval of a label for commercial feed which contains additives, or both; the distributor may be required to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label.
2. Satisfactory evidence of safety and efficacy of a commercial feed may be:
 - a. When the commercial feed contains such additives, the use of which conforms to the requirements of the applicable regulation in Title 21, Code of Federal Regulations, or which are "prior sanctioned" or "informal review sanctioned" or "generally recognized as safe" for such use, or
 - b. When the commercial feed is itself a drug as defined in subsection 7 of North Dakota Century Code 4.1-41-01 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 section 512 of the federal food, drug, and cosmetic act, or
 - c. When one of the purposes for feeding a commercial feed is to impart immunity, the constituents imparting immunity have been approved for the purpose through the federal virus, serum and toxins act of 1913 as amended, or
 - d. When the commercial feed is a direct fed microbial product and:
 - i. The product meets the particular fermentation product definition; and
 - ii. 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
 - iii. The source is stated with a corresponding guarantee expressed in accordance with these rules.
 - e. When the commercial feed is an enzyme product and:
 - i. The product meets the particular enzyme definition defined by the association of American feed control officials; and
 - ii. The enzyme is stated with a corresponding guaranteed expressed in accordance with these rules.

History: Effective XXXXX, 2020

General Authority: NDCC 4.1-41-20

Law Implemented: 4.1-41-06

7-16-11-01. Adulterants

1. For the purpose of subsection 1 of North Dakota Century Code 4.1-41-11, the terms "poisonous or harmful substance" include:
 - a. Fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds:
 - i. Two tenths of one percent for breeding and dairy cattle;
 - ii. Three tenths of one percent for slaughter cattle;
 - iii. Three tenths of one percent for sheep;
 - iv. Thirty-five hundredths of one percent for lambs;
 - v. Forty-five hundredths of one percent for swine; and
 - vi. Six tenths of one percent for poultry.
 - b. 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:
 - i. Four thousandths of one percent for breeding and dairy cattle;
 - ii. Nine thousandths of one percent for slaughter cattle;
 - iii. Six thousandths of one percent for sheep;
 - iv. One hundredth of one percent for lambs;
 - v. Fifteen thousandths of one percent for swine;
 - vi. Three hundredths of one percent for poultry.
 - c. Fluorine bearing ingredients incorporated in any feed that is fed directly to cattle, sheep, or goats consuming roughage with or without limited amounts of grain that results in a daily fluorine intake in excess of fifty milligrams of fluorine per one hundred pounds of body weight.
 - d. Soybean meal, flakes, or pellets, or other vegetable meals, flakes, or pellets which have been extracted with trichlorethylene or other chlorinated solvents.
 - e. 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.
2. All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of such weed seeds so that the finished product contains not more than four and one-half viable restricted seeds per pound.

History: Effective XXXXX, 2020

General Authority: NDCC 4.1-41-20

Law Implemented: 4.1-41-11

ARTICLE 7-17
PET FOOD AND SPECIALTY PET FOOD

<u>Chapter</u>	
<u>7-17-01</u>	<u>Definitions</u>
<u>7-17-02</u>	<u>Label Format and Labeling</u>
<u>7-17-03</u>	<u>Brand and Product Names</u>
<u>7-17-04</u>	<u>Expression of Guarantees</u>
<u>7-17-05</u>	<u>Ingredients</u>
<u>7-17-06</u>	<u>Drugs and Pet Food Additives</u>
<u>7-17-07</u>	<u>Nutritional Adequacy Feeding</u>
<u>7-17-08</u>	<u>Directives Statements of</u>
<u>7-17-09</u>	<u>Calorie Content Descriptive</u>
<u>7-17-10</u>	<u>Terms Manufacturer or</u>
<u>7-17-11</u>	<u>Distributor</u>

Section

<u>7-17-01-01</u>	<u>Definitions</u>
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7-17-01-01. Definitions.

As used in this article, unless the context requires other, shall be construed to mean:

1. "All life stages" means gestation/lactation, growth, and adult maintenance life stages.
2. "Family" means a group of products, which are nutritionally adequate for any or all life stages based on their nutritional similarity to a lead product, which has been successfully test-fed according to an association of American feed control officials feeding protocol.
3. "Immediate container" means the unit, can, box, tin, bag, or other receptacle or covering in which a pet food or specialty pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers.
4. "Ingredient statement" means a collective and contiguous listing on the label of the ingredients of which the pet food or specialty pet food is composed.
5. "Principal display panel" means the part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

History: Effective XXXXX, 2020.

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05

Section

7-17-02-01 Label Format and Labeling

7-17-02-01. Label Format and Labeling

1. Pet food and specialty pet food shall be labeled with the following information
 - a. Product name and brand name, if any, on the principal display panel;
 - b. A statement specifying the species name of pet or specialty pet for which the food is intended, conspicuously designated on the principal display panel;
 - c. Quantity statement as defined in (section reference of the rules), by weight (pounds and ounces, and metric), liquid measure (quarts, pints, and fluid ounces, and metric) or by count, on the principal display panel;
 - d. Guaranteed analysis;
 - e. Ingredient statement;
 - f. A statement of nutritional adequacy or purpose if required;
 - g. Feeding directions if required;
 - h. A statement of calorie content;
 - i. Name and address of the manufacturer or distributor
2. When a pet food or specialty pet food enclosed in an outer container or wrapper is intended for retail sale, all required label information shall appear on the outer container or wrapper.
3. A vignette, graphic, or pictorial representation on a pet food or specialty pet food label shall not misrepresent the contents of the package.
4. The use of the word "proven" in connection with a label claim for a pet food or specialty pet food is not permitted unless the claim is substantiated by scientific or other empirical evidence.
5. No statement shall appear upon the label or labeling of a pet food or specialty pet food which makes false or misleading comparisons between that product and any other product.
6. A personal or commercial endorsement is permitted on a pet food or specialty pet food label provided the endorsement is not false or misleading.
7. A statement on a pet food or specialty pet food label stating "improved," "new," or similar designation shall be substantiated and limited to six months production.
8. A statement on a pet food or specialty pet food label stating preference or comparative attribute claims shall be substantiated and limited to one year production, after which the claim shall be removed or re-substantiated.

History: Effective XXXXX, 2020.

General Authority: NDCC

4.1-41-20 Law Implemented: NDCC

4.1-41-05

Section

7-17-03-01 Brand and Product Names

7-17-03-01. Brand and Product Names

1. The words "one hundred percent" or "all," or words of similar designation shall not be used in the brand or product name of a pet food or specialty pet food if the product contains more than one ingredient, not including decharacterizing agents, or trace amounts of preservatives and condiments.
2. An ingredient or combination of ingredients may form part of a product name of a pet food or specialty pet food when:
 - a. The ingredient constitutes at least ninety-five percent of the total weight of the product. Water sufficient for processing may be excluded when calculating the percentage; however, the ingredients shall constitute at least seventy percent of the total product weight.
 - b. When any ingredient constitutes at least twenty-five percent of the weight of the product, provided:
 - i. Water sufficient for processing may be excluded when calculating the percentage. However, the ingredient shall constitute at least ten percent of the total product weight; and
 - ii. A descriptor is used with the ingredient name. This descriptor shall imply other ingredients are included in the product formula; and
 - iii. The descriptor shall be in the same size, style, and color print as the ingredient name.
 - c. When a combination of ingredients which are included in the product name in accordance with this section meets all of the following:
 - i. Each ingredient constitutes at least three percent of the product weight, excluding water sufficient for processing; and
 - ii. The names of the ingredients appear in the order of their respective predominance by weight in the product; and
 - iii. All such ingredient names appear on the label in the same size, style, and color print.
 - d. When the name of any ingredient appears in the product name of a pet food, specialty pet food, or elsewhere on the product label and includes a descriptor such as "with" or similar designation, the named ingredient must constitute at least three percent of the product weight exclusive of water sufficient for processing. If the names of more than one ingredient are shown, they shall appear in their respective order of predominance by weight in the product. The three percent minimum level shall not apply to claims for nutrients, such as vitamins, minerals, and fatty acids, as well as condiments. The word "with" or similar designation, and named ingredients shall be in the same size, style, color and case print, and be of no greater size than:

Panel Size	Max "With Claim" Type Size
≤5 in. ²	⅙ in.
>5-≤25 in. ²	¼ in.
>25-≤100 in. ²	⅓ in.
>100-≤400 in. ²	½ in.
>400 in. ²	1 in.

- e. A flavor designation may be included as part of the product name or elsewhere on the label of a pet food or specialty pet food when the flavor designation meets all of the following:
 - i. The flavor designation:
 - 1. Conforms to the name of the ingredient as listed in the ingredient statement;
or
 - 2. Is identified by the source of the flavor in the ingredient statement; and
 - ii. The word "flavor" is printed in the same size type and with an equal degree of conspicuousness as the name of the flavor designation; and
 - iii. Substantiation of the flavor designation, the flavor claim, or the ingredient source is provided upon request.
- f. The product name of the pet food or specialty pet food shall not be derived from one or more ingredients unless all ingredients are included in the name, except as specified by this rule; provided that the name of an ingredient or combination of ingredients may be used as a part of the product name if:
 - i. The ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product or is present in amounts which have a material bearing upon the price of the product or upon acceptance of the product by the purchaser thereof; or
 - ii. It does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients.
- g. Contractions or coined names referring to ingredients shall not be used in the brand name of a pet food or specialty pet food unless it is in compliance with this rule.

History: Effective XXXXX, 2020.

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05

Section

7-17-04

Expression of Guarantees

7-17-04-01. Expression of Guarantees

1. The "guaranteed analysis" shall be listed in the following order and format unless otherwise specified in these rules:
 - a. A pet food or specialty pet food label shall list the following required guarantees:
 - i. Minimum percentage of crude protein;
 - ii. Minimum percentage of crude fat;
 - iii. Maximum percentage of crude fat, if required;
 - iv. Maximum percentage of crude fiber;
 - v. Maximum percentage of moisture; and
 - vi. Additional guarantees shall follow moisture.
 - b. When ash is listed in the guaranteed analysis on a pet food or specialty pet food label, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.
 - c. When listed on the label of a dog or cat food product, guarantees for dietary starch and sugars shall be stated as maximum percentages. Neither guarantee shall be listed without the other. The guarantee for dietary starch shall follow ash, if also listed; or moisture, if ash is not listed. The guarantee for sugars shall follow dietary starch.
 - d. A dog or cat food label shall list other required or voluntary guarantees in the same order and units of the nutrients in the association of American feed control officials dog or cat food nutrient profiles. Guarantees for substances not listed in the association of American feed control officials dog or cat food nutrient profiles, or not otherwise provided for in these regulations, shall immediately follow the listing of the recognized nutrients and shall be accompanied by an asterisk referring to the disclaimer "not recognized as an essential nutrient by the association of American feed control officials dog or cat food nutrient profiles." The disclaimer shall appear immediately after the last such guarantee in the same size type as the guarantees.
 - e. A specialty pet food label shall list other required or voluntary guarantees in the same order and units of the nutrients in an association of American feed control officials recognized nutrient profile for the specific species; however, if no species-specific association of American feed control officials recognized nutrient profile is available, the order and units shall follow the same order and units of nutrients in the association of American feed control officials cat food nutrient profile. Guarantees for substances not listed in an association of American feed control officials recognized nutrient profile for the specific species of animal shall immediately follow the listing of recognized nutrients and shall be accompanied by an asterisk referring to the disclaimer "not recognized as an essential nutrient by the _____" with the blank filled in by listing the specific association of American feed control officials recognized nutrient profile. This disclaimer shall appear immediately after the last such guarantee in the same sized type as the guarantees. No such disclaimer shall be required unless an association of American feed control officials recognized nutrient profile is available for the specific species of specialty pet.
2. The sliding scale method of expressing a guaranteed analysis on a pet food or specialty pet food label, for example "minimum crude protein 15-18 percent" is prohibited.
3. The label of a pet food or a specialty pet food which is formulated as and represented to be a mineral supplement shall include:
 - a. Minimum guarantees for all minerals from sources declared in the ingredient statement and established by an association of American feed control officials recognized nutrient profile, expressed as the element in units specified in the nutrient profile; or
 - b. Minimum guarantees for all minerals from sources declared in the ingredient statement expressed as the element in units specified in the association of American feed control officials cat food nutrient profiles when no species-specific nutrient profile has been recognized by association of American feed control officials; and provided that

- c. Mineral guarantees required by these rules may be expressed in milligrams per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and
 - d. A weight equivalent (e.g., one fluid ounce equals twenty-eight grams) for liquid products.
- 4. The label of the pet food or a specialty pet food which is formulated as and represented to be a vitamin supplement shall include:
 - a. Minimum guarantees for all vitamins from sources declared in the ingredient statement and established by an association of American feed control officials recognized nutrient profile, expressed in units specified in the nutrient profile; or
 - b. Minimum guarantees for all vitamins from sources declared in the ingredient statement expressed in units specified in the association of American feed control officials cat food nutrient profiles when no species-specific nutrient profile has been recognized by association of American feed control officials; and provided that
 - c. Vitamin guarantees required by these rules may be expressed in approved units (e.g., IU, mg, g) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and
 - d. A weight equivalent (e.g., one fluid ounce equals twenty-eight grams) for liquid products.
- 5. When the label of a pet food or specialty pet food includes a comparison of the nutrient content of the food with levels established by an association of American feed control officials recognized nutrient profile, such as a table of comparison, a percentage, or any other designation referring to an individual nutrient or all of the nutrient levels, the following apply:
 - a. The product shall meet the association of American feed control officials recognized nutrient profile; and
 - b. The statement of comparison shall be preceded by a statement that the product meets the association of American feed control officials recognized profile. However, this statement is not required provided that the nutritional adequacy statement as required by these rules appears elsewhere on the product label; and
 - c. The statement of comparison of the nutrient content shall constitute a guarantee, but need not be repeated in the guaranteed analysis; and
 - d. The statement of comparison may appear on the label separate and apart from the guaranteed analysis.
- 6. The maximum moisture declared on a pet food or specialty pet food label shall not exceed seventy-eight percent or the natural moisture content of the ingredients, whichever is higher. However, pet food and specialty pet food such as those consisting principally of stew, gravy, sauce, broth, aspic, juice, or a milk replacer, and which are so labeled, may contain moisture in excess of seventy-eight percent.
- 7. Guarantees for crude protein, crude fat, and crude fiber are not required when the pet food or specialty pet food is intended for purposes other than to furnish these substances or they are of minor significance relative to the primary purpose of the product, such as a mineral or vitamin supplement.
- 8. Guarantees for microorganisms and enzymes shall be stated in the format as stipulated in (Model Regulation 4g and 4h: check NDCC)

History: Effective XXXXX, 2020.

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05

Section
7-17-05

Ingredients

7-17-05-01. Ingredients.

1. Each ingredient of a pet food or specialty pet food shall be listed in the ingredient statement as follows:
 - a. The names of all ingredients in the ingredient statement shall be shown in letters or type of the same size, style, and color;
 - b. The ingredients shall be listed in descending order by their predominance by weight in non-quantitative terms;
 - c. Ingredients shall be listed and identified by the name and definition established by association of American feed control officials; and
 - d. Any ingredient for which no name and definition have been so established shall be identified by the common or usual name of the ingredient.
2. The ingredients "meat" or "meat-by-products" shall be qualified to designate the animal from which the meat or meat-by-products are derived from cattle, swine, sheep, goats, or any combination thereof. For example, ingredients derived from horses shall be listed as "horsemeat" or "horsemeat by-products."
3. Brand or trade names shall not be used in the ingredient statement.
4. A reference to the quality, nature, form, or other attribute of an ingredient shall be allowed when the reference meets all of the following:
 - a. The designation is not false or misleading;
 - b. The ingredient imparts a distinctive characteristic to the pet food or specialty pet food because it possesses that attribute; and
 - c. A reference to quality or grade of the ingredient does not appear in the ingredient statement.

History: Effective XXXXX, 2020.

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05

Section

7-17-06

Drugs and Pet Food Additives

7-17-06-01. Drugs and Pet Food Additives

1. An artificial color may be used in a pet food or specialty pet food only if it has been shown to be harmless to pets or specialty pets. The permanent or provisional listing of an artificial color in the United States food and drug regulations as safe for use, together with the conditions, limitations, and tolerances, if any, shall be deemed to be satisfactory evidence that the color is, when used according to regulations, harmless to pets or specialty pets.
2. Evidence may be required to prove the safety and efficacy or utility of a pet food or specialty pet food which contains additives or drugs, when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food or specialty pet food may be established:
 - a. When the pet food or specialty pet food contains such additives being used in compliance with the requirements of the applicable regulation under title 21, Code of Federal Regulations; or
 - b. Which are "prior sanctioned", "informal review sanctioned", or "generally recognized as safe" for such use; or
 - c. When the pet food or specialty pet food itself is a drug or contains a drug as defined in subsection 7 of North Dakota Century Code section 4.1-41-01 and is "generally recognized as safe and effective" for the labeled use or is marketed subject to an application approved by the United States food and drug administration under title 21, United States code 360(b).
3. When a drug is included in a pet food or specialty pet food, the format required by (subsection #) of North Dakota Administrative Code section 7-16-03 for labeling medicated feeds shall be used.

History: Effective XXXXX, 2020.

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05

7-17-07-01. Nutritional Adequacy.

1. The label of a pet food or specialty pet food which is intended for all life stages and sizes of the pet or specialty pet may include an unqualified claim, directly or indirectly, such as "complete and balanced," "perfect," or "scientific" if at least one of the following apply:
 - a. The product meets the nutrient requirements for all life stages and sizes established by an association of American feed control officials recognized nutrient profile; or
 - b. The product meets the criteria for all life stages as substantiated by completion of the appropriate association of American feed control officials recognized animal feeding protocol; or
 - c. The product is a member of a product family which is nutritionally similar to a lead product which contains a combination of ingredients that has been fed to a normal animal as the sole source of nourishment in accordance with the testing procedures established by association of American feed control officials for all life stages, provided that:
 - i. The nutritional similarity of the family product can be substantiated according to the procedures for establishing pet food product families developed by association of American feed control officials; and
 - ii. The family product meets the criteria for all life stages; and
 - iii. Under circumstances of reasonable doubt, the state control official may require the manufacturer to perform additional testing of the family product in order to substantiate the claim of nutritional adequacy.
2. The label of a pet food or specialty pet food which is intended for a limited purpose, such as the size of dog or a specific life stage, but not for all sizes and life stages may include a qualified claim such as "complete and balanced," "perfect," or "scientific" when the product and claim meet all of the following:
 - a. The claim is qualified with a statement of the limited purpose or specific life stage for which the product is intended or suitable, for example, "complete and balanced for puppies or kittens." The claim and the required qualification shall be juxtaposed on the same label panel and in the same size, style, and color print; and
 - b. The product must meet at least one of the following:
 - i. The nutrient requirements for the limited purpose or specific life stage established by an association of American feed control officials recognized nutrient profile; or
 - ii. The criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate association of American feed control officials recognized animal feeding protocol; or
 - iii. The requirements of a product family which is nutritionally similar to a lead product which contains a combination of ingredients which, when fed for such limited purpose, will satisfy the nutrient requirements for such limited purpose and has had its capabilities in this regard demonstrated by adequate testing, and provided that"
 1. The nutritional similarity of the family product can be substantiated according to the procedures for establishing pet food product families developed by association of American feed control officials; and
 2. The family product meets the criteria for such limited purpose; and
 3. Under circumstances of reasonable doubt, the state control official may require the manufacturer to perform additional testing for the family product to substantiate the claim of nutritional adequacy.

3. Dog and cat food labels shall include a statement of nutritional adequacy or purpose of the product except when the dog or cat food is clearly and conspicuously identified on the principal display panel as a "snack," "treat," or "supplement." The statement shall consist of one of the following:
- a. A claim that the dog or cat food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation and lactation, growth, maintenance, and all life stages. The claim shall be stated verbatim as one of the following:
 - i. "(Product name) is formulated to meet the nutritional levels established by the association of American feed control officials dog or cat food nutrient profiles for (stage of life, or the words "all life stages"). For a dog food, when the blank includes the words "growth" or "all life stages," one of the following phrases must also be added verbatim to the end of the claim:
 - 1. "including growth of large size dogs (seventy pound or more as an adult)" if the product has been formulated to meet the levels of nutrients specifically reference in the dog food nutrient profiles as being applicable to large size growing dogs.
 - 2. "except for growth of large size dogs (seventy pounds or more as an adult)" if the product has not been formulated to meet the levels of nutrients specifically referenced in the dog food nutrient profiles as being applicable to large size growing dogs; or
 - ii. "Animal feeding tests using association of American feed control officials procedures substantiate that (product name) provides complete and balanced nutrition for (life stage).
 - iii. "(Product name) provides complete and balanced nutrition for (life stage) and is comparable in nutritional adequacy to a product which has been substantiated using association of American feed control officials feeding tests."
 - b. A nutritional or dietary claim for purposes other than those listed in this rule if the claim is scientifically substantiated; or
 - c. The statement: "This product is intended for intermittent or supplemental feeding only," if a product does not meet the requirements of this rule or any other special nutritional or dietary need and is suitable only for limited or intermittent or supplementary feeding.
4. A product intended for use by, or under the supervision or direction of a veterinarian shall make a statement in accordance with this rule.
5. A signed affidavit attesting that the product meets the requirements of this rule shall be submitted to the state control official upon request.
6. If the nutrient content of a product does not meet those nutrient requirements established by an association of American feed control officials recognized nutrient profile, or if no requirement has been established by an association of American feed control officials recognized nutritional authority for the life stage of the intended species, the claimed nutritional adequacy or purpose of the product shall be scientifically substantiated.
7. The following association of American feed control officials recognized nutritional authority, nutrient profile, and animal feeding protocol shall be acceptable as the basis for a claim of nutritional adequacy:
- a. As an association of American feed control officials recognized nutrient profile for nutritional authority:
 - i. For dogs, the association of American feed control officials dog food nutrient profiles;
 - ii. For cats, the association of American feed control officials cat food nutrient profiles;
 - iii. For specialty pets, the nutrient recommendations approved by the committee on animal nutrition of the national research council of the national academy of sciences, provided that this nutrient recommendation is recognized only for the specific specialty pet for which the profile is intended.

b. As an association of American feed control officials recognized animal feeding protocol, the association of American feed control officials dog and cat food feeding protocols.

History: Effective XXXXX, 2020.

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05

Section

7-17-08

Feeding Directions

7-17-08-01. Feeding Directions.

1. Dog or cat food, including snacks or treats, labeled as complete and balanced for any or all life stages, as provided in these rules, shall list feeding directions on the product label. These directions shall be consistent with the intended use indicated in the nutritional adequacy statement, unless a limited use or more limited life stage designation is declared elsewhere. These directions shall be expressed in common terms and shall appear prominently on the label. Feeding directions shall, at a minimum, state, "Feed (unit of product) per (weight) of dog or cat." The frequency of feeding shall also be specified.
2. When a dog or cat food is intended for use by or under the supervision or direction of a veterinarian, the statement "Use only as directed by your veterinarian" may be used in lieu of feeding directions.
3. Specialty pet food, including snacks or treats, labeled as complete and balanced for any or all life stages, as provided in these rules, shall list feeding directions on the product label. These feeding directions shall be adequate to meet the nutrient requirements of the intended species of specialty pet as recommended by the association of American feed control officials recognized nutritional authority. These directions shall be expressed in common terms and shall appear prominently on the label. The frequency of feeding shall also be specified.

History: Effective XXXXX, 2020.

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05

7-17-09-01. Statements of Calorie Content

1. The label of a dog or cat food, including snacks, treats, and supplements, shall bear a statement of calorie content and meet all of the following:
 - a. The statement shall be separate and distinct from the "guaranteed analysis" and appear under the heading "calorie content";
 - b. The statement shall be measured in terms of metabolizable energy on an "as fed" basis and must be expressed both as "kilocalories per kilogram" of product, and as kilocalories per familiar household measure (e.g. cups or cans) or unit of product; and
 - c. The calorie content is determined by one of the following methods:
 - i. By calculation using the following "Modified Atwater" formula: $ME(kcal/kg)=10[(3.5 \times CP) + (8.5 \times CF) + (3.5 \times NFE)]$, where:
 1. ME = metabolizable energy;
 2. CP = percent crude protein as fed;
 3. CF = percent crude fat as fed;
 4. NFE = percent nitrogen-free extract as fed; and
 5. The percentages of CP and CF are the average values of these components in the product as determined by sound scientific methods, such as, scientifically accurate calculations made from the formula of the product of upon chemical analysis of the product.
 6. The NFE is calculated as the difference between one hundred and the sum of CP, CF, and the percentages of crude fiber, moisture, and ash determined in the same manner as CP and CF; or
 - ii. In accordance with a testing procedure established by association of American feed control officials.
 - d. An affidavit shall be provided upon the request of the state control official substantiating that the calorie content was determined by:
 - i. Article 7-17-09-01(c)(i) in which case the summary data used in the calculation shall be included in the affidavit.
 - ii. Article 7-17-09-01(c)(ii) in which case the summary data used in the determination of calorie content shall accompany the affidavit.
 - di. The calorie content statement shall appear as one of the following:
 - i. The heading "calorie content" on the label or other labeling shall be followed parenthetically by the word "calculated" when the calorie content is determined accordance with 7-17-09-01 (c)(i); or
 - ii. The heading "calorie content" on the label or other labeling shall be followed parenthetically by the word "fed" when the calorie content is determined in accordance with 7-17-09-01(c)(ii).
2. Comparative claims shall not be false, misleading, or given undue emphasis and shall be based on the same methodology for the products compared.

History: Effective XXXXX, 2020.

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05

Section 7-17-10-01. Descriptive Terms.

1. Calorie Terms

a. "Light"

i. A dog food product which bears on its label the terms "light," "lite," "low calorie," or words of similar designation shall:

1. Contain no more than 3100 kcal ME/kg for products containing less than twenty percent moisture, no more than 2500 kcal ME/kg for products containing twenty percent or more but less than sixty-five percent moisture, and no more than nine hundred kcal ME/kg for products containing sixty-five percent or more moisture; and

2. Include on the label a calorie content statement:

a. In accordance with the format provided in 7-17-09; and

b. Which states no more than 3100 kcal ME/kg for products containing less than twenty percent moisture, no more than 2500 kcal ME/kg for products containing twenty percent or more but less than sixty-five percent, and no more than nine hundred kcal ME/kg for products containing sixty-five percent or more moisture; and

3. Include on the label feeding directions which reflect a reduction in calorie intake consistent with the intended use.

ii. A cat food product which bears on its label the terms "light," "lite," "low calorie," or words of similar designation shall:

1. Contain no more than 3250 kcal ME/kg for products containing less than twenty percent moisture, no more than 2650 kcal ME/kg for products containing twenty percent or more but less than sixty-five percent moisture, and no more than nine hundred fifty kcal ME/kg for products containing sixty-five percent moisture; and

2. Include on the label a calorie content statement:

a. In accordance with the format provided in 7-17-09; and

b. Which states no more than 3250 kcal ME/kg for products containing less than twenty percent moisture, no more than 2650 kcal ME/kg for products containing twenty percent or more but less than sixty-five percent moisture, and no more than nine hundred fifty kcal ME/kg for products containing sixty-five percent or more moisture; and

3. Include on the label feeding directions which reflect a reduction in calorie intake consistent with the intended use.

b. "Less" or "reduced calories"

i. A dog or cat food product which bears on its label a claim of "less calories," "reduced calories," or words of similar designation, shall include on the label:

1. The name of the product of comparison and the percentage of calorie reduction expressed on an equal weight basis explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and

2. The comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and

3. A calorie content statement in accordance with the format provided in 7-17-09; and

4. Feeding directions which reflect a reduction in calories compared to feeding directions for the product of comparison.

ii. A comparison between products in different categories of moisture content is misleading.

2. Fat Terms

a. "Lean"

- i. A dog food product which bears on its label the terms "lean," "low fat," or words of similar designation shall:
 1. Contain no more than nine percent crude fat for products containing less than twenty percent moisture, no more than seven percent crude fat for products containing twenty percent or more but less than sixty-five percent moisture, and no more than four percent crude fat for products containing sixty-five percent or more moisture;
 2. Include on the product label in the guaranteed analysis:
 - a. A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guarantee specified in 7-17-04-01(1)(a); and
 - b. A maximum crude fat guarantee which is no more than nine percent crude fat for products containing less than twenty percent moisture, no more than seven percent crude fat for products containing twenty percent or more but less than sixty-five percent moisture, and no more than four percent crude fat for products containing sixty-five percent or more moisture.
- ii. A cat food product which bears on its label the terms "lean," "low fat," or words of similar designation shall:
 1. Contain a maximum percentage of crude fat which is no more than ten percent crude fat for products containing less than twenty percent moisture, no more than eight percent crude fat for products containing twenty percent or more but less than sixty-five percent moisture, and no more than five percent crude fat for products containing sixty-five percent or more moisture; and
 2. Include on the product label in the guaranteed analysis:
 - a. A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guarantee specified in 7-17-04-01(1)(a); and
 - b. A maximum percentage of crude fat which is no more than ten percent crude fat for products containing less than twenty percent moisture, no more than eight percent crude fat for products containing twenty percent or more but less than sixty-five percent moisture, and no more than five percent crude fat for products containing sixty-five percent or more moisture.

b. "Less" or "reduced fat"

- i. A dog or cat food product which bears on its label a claim of "less fat," "reduced fat," or words of similar designation, shall include on the label:
 1. The name of the product of comparison and the percentage of fat reduction expressed on an equal weight bases explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and
 2. The comparative statement printed in type of the same color and style and least one-half the type size used in the claim; and
 3. A maximum crude fat guarantee in the guaranteed analysis immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in 7-17-04-01(1)(a).
- ii. A comparison on the label between products in different categories of moisture content is misleading.

3. Carbohydrate Terms

a. "Low" carbohydrate, dietary starch, and sugars claims

i. A claim of "low carbohydrates," "low dietary starch," "low sugars" alone or in combination is not allowed.

b. "Less" or "reduced" carbohydrates, dietary starch, and sugars claims.

i. A dog or cat food product that makes such statements on the label shall include on that label:

1. The name of the product of comparison and the percentage of reduction in total dietary starch plus sugars expressed on an equal weight basis explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and

2. The comparative statement printed in type of the same color and style but not less than one-half the size used in the claim; and

3. Maximum guarantees for dietary starch and sugars as stated in 7-17-04-01 (1)(c).

ii. A comparison between products in different categories of moisture content is misleading.

History: Effective XXXXX, 2020.

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05

Section

7-17-11

Manufacturer or Distributor; Name and Address

7-17-11-01. Manufacturer or Distributor; Name and Address

1. The label of a pet food or specialty pet food shall specify the name and address of the manufacturer or distributor. The statement of the place of business shall include the street address, city, state, and zip code. The street address may be omitted if the street address is shown in a current city directory or telephone directory for the city listed on the label.
2. When a person manufactures or distributes a pet food or specialty pet food in a place other than the principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such pet food or specialty pet food was manufactured or packaged or from where each package is to be distributed.

History: Effective XXXXX, 2020.

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05