

CHAPTER 7-17-09 CALORIE CONTENT DESCRIPTIVE

Section

7-17-09-01

Statements of Calorie Content

7-17-09-01. Statements of calorie content.

1. The label of a dog or cat food, including snacks, treats, and supplements, must bear a statement of calorie content and meet all of the following:
 - a. The statement must be separate and distinct from the "guaranteed analysis" and appear under the heading "calorie content";
 - b. The statement must 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:
 - (1) By calculation using the following "modified atwater" formula:
$$\text{ME(kcal/kg)} = 10[(3.5 \times \text{CP}) + (8.5 \times \text{CF}) + (3.5 \times \text{NFE})], \text{ where:}$$
 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
 - (2) In accordance with a testing procedure established by association of American feed control officials.
 - d. An affidavit must be provided upon the request of the state control official substantiating that the calorie content was determined by:
 - (1) Paragraph 1 of subdivision c in which case the summary data used in the calculation must be included in the affidavit.
 - (2) Paragraph 2 of subdivision c in which case the summary data used in the determination of calorie content must accompany the affidavit.
 - e. The calorie content statement must appear as one of the following:
 - (1) The heading "calorie content" on the label or other labeling must be followed parenthetically by the word "calculated" when the calorie content is determined accordance with paragraph 1 of subdivision c; or

- (2) The heading "calorie content" on the label or other labeling must be followed parenthetically by the word "fed" when the calorie content is determined in accordance with paragraph 2 of subdivision c.
2. Comparative claims may not be false, misleading, or given undue emphasis and must be based on the same methodology for the products compared.

History: Effective July 1, 2020.

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05