

CHAPTER 7-17-12
INTENDED USE STATEMENT AND NUTRITIONAL ADEQUACY CLAIMS

Section

7-17-12-01 Intended Use Statement and Nutritional Adequacy Claims

7-17-12-01. Intended use statement and nutritional adequacy claims.

1. A statement identifying the intended use of a pet food or specialty pet food is required on the principal display panel of the label in accordance with the following:
 - a. The intended use of a pet food or specialty pet food must be stated as:
 - (1) "Complete food" for food products intended to be the complete diet for all life stages and sizes of a pet or specialty pet. The statement also must include the intended species (e.g., complete dog food);
 - (2) For food products intended to be the complete diet for a limited life stage or size of a pet or specialty pet, one of the two following statements must be used, "complete food for" or "complete food". The statement also must include the intended species and life stage, when applicable (e.g., complete adult dog food, complete food for kittens);
 - (3) "Veterinary diet" for food products intended to be used under veterinary supervision only. The statement also must include the intended species (e.g., veterinary diet for dogs);
 - (4) "Treat" for food products for pets or specialty pets, provided occasionally for enjoyment, training, entertainment, or other purposes, and generally not intended or represented to be a complete food or nutritional supplement. The statement also must include the intended species (e.g., cat treats);
 - (5) "Food supplement" for food products for pets or specialty pets that are intended to supply specific nutrients or other food components but are not a complete diet. The statement also must include the intended species (e.g., dog food supplement);
 - (6) "Food mixer" for food products for pets or specialty pets that are intended to top, accompany, or contribute to a complete diet but generally are not intended or represented to be a complete diet; or
 - (7) "Daily food" for food products that are intended to be the daily diet for specialty pets if no recognized nutritional authority exists. A limited life stage may be indicated. The statement also must include the intended species (e.g., daily bearded dragon food).
 - b. This intended use statement must:
 - (1) Appear on the label principal display panel and must be repeated on the alternate principal display panel, if present;
 - (2) Be at least as large as the statement of net quantity, consistent with 16 CFR 500.21;
 - (3) Appear in the same color and style as the statement of net quantity and on the same background color as the statement of net quantity; and
 - (4) Be separated by at least a space equal to the height of the letter "N" used in the statement of net quantity from other printed label information on all sides.

2. 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 make unqualified claims, directly or indirectly, such as "complete and balanced", "perfect", "scientific", or "100% nutritious" if at least one of the following apply:
 - a. The product meets the nutrient requirements for all life stages and sizes established by an AAFCO-recognized nutrient profile.
 - b. The product meets the criteria for all life stages as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol. Unqualified claims of nutritional adequacy that include large size dogs (greater than 70 pounds [31.75 kilograms] as an adult) can be substantiated by completing the appropriate protocols using large size dogs or can be substantiated by completing the appropriate protocols using dogs less than 70 pounds [31.75 kilograms] adult weight while containing no more calcium and phosphorus than the maximum limits for large size dogs listed in the AAFCO Dog Food Nutrient Profiles.
 - c. The product is a member of a product family that is nutritionally similar to a lead product that contains a combination of ingredients that have been fed to a normal animal as the sole source of nourishment in accordance with the testing procedures established by AAFCO for all life stages, if:
 - (1) The nutritional similarity of the family product may be substantiated according to the procedures for establishing pet food product families developed by AAFCO;
 - (2) The family product meets the criteria for all life stages; and
 - (3) Under circumstances of reasonable doubt, the manufacturer performs additional testing of the family product in order to substantiate the claim of nutritional adequacy, as required by the commissioner.
3. The label of a pet food or specialty pet food that is intended for a limited purpose (such as size of dog) or a specific life stage, but not for all life stages and sizes, may make qualified claims, directly or indirectly, such as "complete and balanced", "perfect", "scientific", or "100% nutritious" if the product and claim meet both 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 (e.g., "complete and balanced for puppies"). The claim and the required qualification must be juxtaposed on the same label panel and in the same size, style, and color print; and
 - b. The product meets at least one of the following:
 - (1) The nutrient requirements for the limited purpose or specific life stage established by an AAFCO-recognized nutrient profile.
 - (2) The criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol. Qualified claims of nutritional adequacy that include large size dogs can be substantiated by completing the appropriate protocols using large size dogs or can be substantiated by completing the appropriate protocols using dogs less than 70 pounds [31.75 kilograms] adult weight while containing no more calcium and phosphorus than the maximum limits for large size dogs listed in the AAFCO Dog Food Nutrient Profiles.
 - (3) The requirements of a product family that is nutritionally similar to a lead product which contains a combination of ingredients which, if fed for such limited purpose, satisfies the nutrient requirements for the limited purpose as demonstrated by adequate testing, and provided that:

- (a) The nutritional similarity of the family product may be substantiated according to the procedures for establishing pet food product families developed by AAFCO;
 - (b) The family product meets the criteria for such limited purpose; and
 - (c) Under circumstances of reasonable doubt, the manufacturer performs additional testing for the family product to substantiate the claim of nutritional adequacy, as required by the commissioner.
- 4. A product intended for use by, or under the supervision or direction of, a veterinarian clearly must indicate the nutritional adequacy of the product in accordance with paragraph 6 of subdivision c of subsection 1 of section 7-17-13-01 or paragraph 6 of subdivision b of subsection 2 of section 7-17-13-01 as required for any other pet food or specialty pet food.
- 5. A signed affidavit attesting that the product meets the requirements of subsection 2 or subdivision b of subsection 3 must be submitted to the commissioner upon request.
- 6. If the nutrient content of a product does not meet those nutrient requirements established by an AAFCO-recognized nutrient profile, or if no requirement has been established by an AAFCO-recognized nutritional authority for the life stage of the intended species, the claimed nutritional adequacy of the product must be scientifically substantiated.
- 7. The following AAFCO-recognized nutritional authority, nutrient profile, or animal feeding protocol is acceptable as the basis for a claim of nutritional adequacy:
 - a. As an AAFCO-recognized nutrient profile or nutritional authority:
 - (1) For dogs, the AAFCO Dog Food Nutrient Profiles;
 - (2) For cats, the AAFCO Cat Food Nutrient Profiles;
 - (3) For specialty pets, the nutrient recommendations approved by the committee on animal nutrition of the national research council of the national academy of sciences if the nutrient recommendation is recognized only for the specific specialty pet for which the profile is intended.
 - b. As an AAFCO-recognized animal feeding protocol, the AAFCO Dog and Cat Food Feeding Protocols.
- 8. 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 AAFCO-recognized nutrient profile, including a table of comparison, a percentage, or any other designation referring to an individual nutrient or all of the nutrient levels:
 - a. The product must meet the AAFCO-recognized nutrient profile;
 - b. The statement of comparison must be preceded by a statement that the product meets the AAFCO-recognized profile. However, the statement that the product meets the AAFCO-recognized nutrient profile is not required if the nutritional adequacy statement as per subdivision a of subsection 2 or paragraph 1 of subdivision b of subsection 3 appears elsewhere on the product label;
 - c. The statement of comparison of the nutrient content must constitute a guarantee and must be in the nutrient guarantees within the pet or specialty pet nutrition facts; and
 - d. The statement of comparison must appear on the label separate and apart from the nutrient guarantees within the pet or specialty pet nutrition facts.

History: Effective July 1, 2024.

General Authority: NDCC 4.1-41-20

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