

# **COLORADO DEPARTMENT OF AGRICULTURE**

## **Inspection and Consumer Services Division**

### **Rules for Pet Food Under the Colorado Feed Law, Sections 35-60-101 through 115, C.R.S.**

#### **8 CCR 1202-7**

#### **Part 1. Legal Authority**

Sections 35-60-102(2) and 35-60-109(1), C.R.S.

#### **Part 2. Definitions and Terms**

- 2.1. The Official Publication of the Association of American Feed Control Officials, Inc. shall mean the 2017 Official Publication of the Association of American Feed Control Officials, Inc. (“AAFCO”), effective January 1, 2017. This rule incorporates by reference the AAFCO standards and guidelines. This rule does not adopt any later amendments to, or editions of, the AAFCO standards and guidelines. Additionally, anyone seeking to review a copy of the referenced material may contact the Inspection and Consumer Services Division of the Department of Agriculture, located at 2331 West 31st Avenue, Denver, Colorado 80211 to learn how this information may be obtained or reviewed. This, and any other material that is incorporated by reference, may be examined at any state publications depository library.
- 2.2. These Rules incorporate the Official Feed Terms as published in the 2017 Official Publication of AAFCO, incorporated herein by reference (later amendments not included), except as the Commissioner designates otherwise in specific cases.
- 2.3. The following commodities are hereby declared exempt from the definition of commercial feed, under the provisions of Section 35-60-102(2), C.R.S. of the Colorado Feed Law, when unground and when not mixed or intermixed with other materials: raw meat, bone and antler, individual chemical compounds, hay, loose salt, straw, stover, silage, cobs, husks, and hulls; provided that these commodities are not adulterated within the meaning of Section 35-60-107, C.R.S., of the Colorado Feed Law. The exemption from the definition of commercial feed is removed for an exempted commodity that bears a label listing nutritional claims or guarantees.

The definitions in the Colorado Feed Law shall apply in addition to the following:

- 2.4. “AAFCO” means the Association of American Feed Control Officials, Inc.
- 2.5. “AAFCO Cat Food Nutrient Profiles” means the lists of nutrients required for cat foods as published in the 2017 Official Publication of AAFCO, incorporated herein by reference (later amendments not included.)
- 2.6. “AAFCO Dog Food Nutrient Profiles” means the lists of nutrients required for dog foods as published in the 2017 Official Publication of AAFCO, incorporated herein by reference (later amendments not included.)
- 2.7. “AAFCO Family Guidelines” means the procedures for establishing pet food product families as published in the 2017 Official Publication of AAFCO, incorporated herein by reference (later amendments not included).

- 2.8. "AAFCO-Recognized Animal Feeding Protocols" means the AAFCO Dog and Cat Food Feeding Protocols as published in the 2017 Official Publication of AAFCO, incorporated herein by reference (later amendments not included.)
- 2.9. "AAFCO-Recognized Authority" means the nutritional authority for a given species of animal as published in the 2017 Official Publication of AAFCO, incorporated herein by reference (later amendments not included.)
- 2.10. "AAFCO-Recognized Nutrient Profile" means the list of nutrients required for specialty pet foods for specific species of specialty pets as published in the 2017 Official Publication of AAFCO, incorporated herein by reference (later amendments not included.)
- 2.11. "All Life Stages" means gestation/lactation, growth, and adult maintenance life stages.
- 2.12. "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.
- 2.13. "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.
- 2.14. "Pet" means dog or cat.
- 2.15. "Pet Food" means any commercial feed distributed or intended to be distributed for consumption by pets.
- 2.16. "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.
- 2.17. "Specialty Pet" means any domesticated pet animal normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, finches, parrots, other cage birds, tropical fish, goldfish, snakes, turtles, and iguanas.
- 2.18. "Specialty Pet Food" means any commercial feed distributed or intended to be distributed for consumption by specialty pets.
- 2.19. "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 AAFCO-Recognized Animal Feeding Protocol(s).

### **Part 3. Label Format and Labeling**

- 3.1. Pet food and specialty pet food shall be labeled with the following information prescribed in this Part:
  - 3.1.1. Product name and brand name, if any, on the principal display panel as stipulated in Part 4;
  - 3.1.2. The species of pet or specialty pet for which the food is intended conspicuously designated on the principal display panel;
  - 3.1.3. Quantity statement on the principal display panel, which must include net quantity in terms of weight, liquid measure or count. The net quantity must be labeled in terms of

weight both in pounds, with any remainder in terms of ounces or common or decimal fractions of the pound and in appropriate SI metric system units; or in the case of liquid measure, both in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or whole quart and in the appropriate SI metric system units.

3.1.3.1. Net quantity shall be declared in terms of weight, liquid measure or count.

3.1.3.2. Net quantity labeled in terms of weight shall be expressed both in pounds, with any remainder in terms of ounces or common or decimal fractions of the pound and in appropriate SI metric system units; or in the case of liquid measure, both in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or whole quart and in the appropriate SI metric system units.

3.1.3.3. When the declaration of quantity of contents by count does not give the 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.

3.1.4. Guaranteed analysis as stipulated in Part 5;

3.1.5. Ingredient statement as stipulated in Part 6.1;

3.1.6. A statement of nutritional adequacy or purpose if required under Part 8;

3.1.7. Feeding directions if required under Part 9;

3.1.8. Name and address of the manufacturer or distributor as stipulated in Part 12; and

3.1.9. The date of manufacture, processing, packaging, or repackaging or a code that permits the determination of the date.

3.2. 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.

3.3. A vignette, graphic, or pictorial representation on a pet food or specialty pet food label shall not misrepresent the contents of the package.

3.4. 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.

3.5. 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.

3.6. A personal or commercial endorsement is permitted on a pet food or specialty pet food label provided the endorsement is not false or misleading.

3.7. A statement on a pet food or specialty pet food label stating "Improved", "New", or similar designation shall be substantiated and limited to six- (6) months production.

- 3.8. A statement on a pet food or specialty pet food label stating preference or comparative attribute claims shall be substantiated and limited to one (1) year production, after which the claim shall be removed or re-substantiated.
- 3.9. Storage and handling information statements
- 3.9.1. Products containing raw frozen meat and/or poultry for animal consumption must bear a statement, "Keep Frozen", displayed in a prominent manner on the principal display panel.
- 3.9.2. Products containing raw frozen meat and/or poultry for animal consumption must conspicuously bear the following statement under a heading "Handling guidelines for safe use" on the outside of the immediate container:
- Some raw food products may contain bacteria that could cause illness if mishandled. Follow these instructions for safest use.
1. Keep frozen until ready to use.
  2. Thaw in refrigerator or microwave.
  3. Keep raw meat and poultry separate from other foods. Wash working surfaces, utensils (including cutting boards, preparation and feeding bowls), hands, and any other items that touch or contact raw meat or poultry with hot soapy water.
  4. Refrigerate leftovers immediately or discard.

#### **Part 4. Brand and Product Names**

- 4.1. The words "100%", "All", or words of similar designation shall not be used in the brand or product name of a pet food or a specialty pet food if the product contains more than one ingredient, not including water sufficient for processing, decharacterizing agents, or trace amounts of preservatives and condiments.
- 4.2. An ingredient or a combination of ingredients may form a part of the product name of a pet food or specialty pet food:
- 4.2.1. When the ingredient(s) that are included in the product name constitute at least 95% of the total weight of the product. Water sufficient for processing may be excluded when calculating the percentage; however, the ingredient(s) shall constitute at least 70% of the total product weight.
- 4.2.2. When any ingredient(s) that are included in the product name constitute at least 25% of the weight of the product, provided that:
- 4.2.2.1. Water sufficient for processing may be excluded when calculating the percentage; however, the ingredients) shall constitute at least 10% of the total product weight; and
- 4.2.2.2. A descriptor is used with the ingredient name(s). This descriptor shall imply other ingredients are included in the product formula. Examples of descriptors include "dinner", "platter", "entree", "formula", and "recipe"; and

- 4.2.2.3. The descriptor shall be in the same size, style, and color print as the ingredient name(s).
- 4.2.3. When a combination of ingredients that are included in the product name in accordance with Part 4.2 meet all of the following:
  - 4.2.3.1. Each ingredient constitutes at least 3% of the product weight, excluding water sufficient for processing; and
  - 4.2.3.2. The names of the ingredients appear in the order of their respective predominance by weight in the product; and
  - 4.2.3.3. All such ingredient names appear on the label in the same size, style, and color print.
- 4.3. When the name of any ingredient appears in the product name of a pet food or elsewhere on the product label and includes a descriptor such as “with” or similar designation, the named ingredient(s) must each constitute at least 3% of the product weight exclusive of water 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 3% minimum level shall not apply to claims for nutrients, such as, but not limited to, 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:

<b>Panel Size</b>	<b>Maximum “with” Claim Type Size</b>
up to 5 sq. in.	1/8"
greater than 5 sq.in. up to 25 sq. in	1/4"
greater than 25 sq.in. up to 100 sq. in.	3/8"
greater than 100 sq.in. up to 400 sq. in.	1/2"
greater than 400 sq. in.	1"

- 4.4. 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:
  - 4.4.1. The flavor designation:
    - 4.4.1.1. Conforms to the name of the ingredient as listed in the ingredient statement; or
    - 4.4.1.2. Is identified by the source of the flavor in the ingredient statement; and
  - 4.4.2. 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
  - 4.4.3. Substantiation of the flavor designation, the flavor claim, or the ingredient source is provided upon request.
- 4.5. 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 Part 4.2 or 4.3;

provided that the name of an ingredient or combination of ingredients may be used as a part of the product name if:

- 4.5.1. 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
  - 4.5.2. It does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients.
- 4.6. 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 Part 4.2, 4.3, or 4.4.

## **Part 5. Expression of Guarantees**

- 5.1. The "Guaranteed Analysis" shall be listed on an "as is" basis and in the following order and format unless otherwise specified in these Sections:
- 5.1.1. A pet food or specialty pet food label shall list the following required guarantees:
    - 5.1.1.1. Minimum percentage of crude protein;
    - 5.1.1.2. Minimum percentage of crude fat;
    - 5.1.1.3. Maximum percentage of crude fat, if required by Part 11;
    - 5.1.1.4. Maximum percentage of crude fiber;
    - 5.1.1.5. Maximum percentage of moisture; and
    - 5.1.1.6. Additional guarantees shall follow moisture.
  - 5.1.2. 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.
  - 5.1.3. A dog or cat food label shall list other required or voluntary guarantees in the same order and units of the nutrients in the AAFCO Dog Food Nutrient Profiles, or the AAFCO Cat Food Nutrient Profiles, as applicable, and may be listed as minimum, maximum, or both, unless otherwise specified. Guarantees for substances not listed in the AAFCO 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 AAFCO Dog (or Cat) Food Nutrient Profiles." The disclaimer shall appear immediately after the last such guarantee in the same size type as the guarantees.
  - 5.1.4. A specialty pet food label shall list other required or voluntary guarantees in the same order and units of the nutrients in an AAFCO-Recognized Nutrient Profile for the specific species and may be listed as minimum, maximum, or both, unless otherwise specified; however, if no species-specific AAFCO-Recognized Nutrient Profile is available, the order and units shall follow the same order and units of nutrients in the AAFCO Cat Food Nutrient Profiles. Guarantees for substances not listed in an AAFCO-Recognized Nutrient Profile for the specific species of animal 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 \_\_\_\_\_ (Blank is to be completed by listing the specific AAFCO-Recognized Nutrient Profile).” The disclaimer shall appear immediately after the last such guarantee in the same size type as the guarantees. No such disclaimer shall be required unless an AAFCO-Recognized Nutrient Profile is available for the specific species of specialty pet.

- 5.2. 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%”) is prohibited.
- 5.3. The label of a pet food or specialty pet food which is formulated as and represented to be a mineral supplement shall include:
  - 5.3.1. Minimum guarantees for all minerals from sources declared in the ingredient statement and established by an AAFCO-Recognized Nutrient Profile expressed as the element in units specified in the nutrient profile; or
  - 5.3.2. Minimum guarantees for all minerals from sources declared in the ingredient statement expressed as the element in the same order and units of the AAFCO Cat Food Nutrient Profiles, when no species-specific profile has been recognized by AAFCO.
  - 5.3.3. Mineral guarantees required by Part 5.3.1 and 5.3.2. may be expressed in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and
  - 5.3.4. A weight equivalent (e.g., 1 fl. oz. = 28 grams) shall be listed for liquid products.
- 5.4. The label of a pet food or a specialty pet food which is formulated as and represented to be a vitamin supplement shall include:
  - 5.4.1. Minimum guarantees for all vitamins from sources declared in the ingredient statement and established by an AAFCO-Recognized Nutrient Profile expressed in units specified in the nutrient profile; or
  - 5.4.2. Minimum guarantees for all vitamins from sources declared in the ingredient statement expressed in the same order and units of AAFCO Cat Food Nutrient Profiles, when no species-specific nutrient profile has been recognized by AAFCO.
  - 5.4.3. Vitamin guarantees required by Part 5.4.1 and 5.4.2, 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
  - 5.4.4. A weight equivalent (e.g., 1 fl. oz. = 28 grams) for liquid products.
- 5.5. 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 AAFCO-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:
  - 5.5.1. The product shall meet the AAFCO-Recognized Nutrient Profile; and
  - 5.5.2. The statement of comparison shall be preceded by a statement that the product meets the AAFCO-Recognized Nutrient Profile. However, the statement that the product meets

the AAFCO-Recognized Nutrient Profile is not required provided that a nutritional adequacy statement permitted by Part 8.1.1 or 8.2.2.1 appears elsewhere on the product label; and

- 5.5.3. The statement of comparison of the nutrient content shall constitute a guarantee, but need not be repeated in the guaranteed analysis; and
- 5.5.4. The statement of comparison may appear on the label separate and apart from the guaranteed analysis.
- 5.6. The maximum moisture declared on a pet food or specialty pet food label shall not exceed 78.00% or the natural moisture content of the ingredients, whichever is higher. However, pet food and specialty pet food such as, but not limited to, 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 78.00%.
- 5.7. 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 mineral or vitamin supplement.
- 5.8. Guarantees for microorganisms shall be stated in colony forming units per gram (CFU/g) when directions are for using the product in grams, or in colony forming units per pound (CFU/lb) when directions are for using the product in pounds. A parenthetical statement shall list each species in order of predominance.
- 5.9. 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 acid liberated/minute/milligram. If two or more sources have the same type of activity, they shall be listed in order of predominance based upon the amount of enzymatic activity provided.
- 5.10. Pet food products made from only animal skin and/or cartilage such as rawhide, pizzles, pig ears, trachea, are not required to be labeled with a guaranteed analysis statement.

## **Part 6. Ingredients**

- 6.1. Each ingredient of a pet food or specialty pet food shall be listed in the ingredient statement as follows:
  - 6.1.1. The names of all ingredients in the ingredient statement shall be shown in letters or type of the same size and color;
  - 6.1.2. The ingredients shall be listed in descending order by their predominance by weight in non-quantitative terms;
  - 6.1.3. Ingredients shall be listed and identified by the name and definition published in the 2015 Official Publication of AAFCO; and
  - 6.1.4. Any ingredient for which no name and definition have been so established shall be identified by the common or usual name of the ingredient.



- 6.2. The ingredients “meat” or “meat by-products” shall be qualified to designate the animal from which the meat or meat by-products are derived unless 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”.
- 6.3. Brand or trade names shall not be used in the ingredient statement.
- 6.4. A reference to the quality, nature, form, or other attribute of an ingredient shall be allowed when the reference meets all of the following:
  - 6.4.1. The designation is not false or misleading;
  - 6.4.2. The ingredient imparts a distinctive characteristic to the pet food or specialty pet food because it possesses that attribute; and
  - 6.4.3. A reference to quality or grade of the ingredient does not appear in the ingredient statement.

## **Part 7. Additives and Drugs**

- 7.1. An artificial color may be used in a pet food or a 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 Administration regulations as safe for use, together with the conditions, limitations, and tolerances, if any, incorporated therein, shall be deemed to be satisfactory evidence that the color is, when used pursuant to such regulations, harmless to pets or specialty pets.
- 7.2. 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:
  - 7.2.1. When the pet food or specialty pet food contains such additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or which are “prior sanctioned” or “Generally Recognized as Safe” for such use; or
  - 7.2.2. When the pet food or specialty pet food itself is a drug or contains a drug as defined in Section 35-60-102(8), C.R.S., of the Colorado Feed Law and is “generally recognized as safe and effective” for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21, U.S.C. 360 (b)
- 7.3. When a drug is included in a pet food or specialty pet food, the following format is required:
  - 7.3.1. The word “medicated” shall appear directly following and below the product name in type size no smaller than one-half the type size of the product name.
  - 7.3.2. A purpose statement shall be listed that includes the following information:
    - 7.3.2.1. The specific species and animal class for which the feed is intended.

- 7.3.2.2. The purpose statement may be excluded from the label if the product name includes a description of the species and animal class(es) for which the product is intended.
- 7.3.2.3. 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.
- 7.3.2.4. The purpose statement of a single purpose ingredient blend 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.
- 7.3.2.5. The purpose statement of a product shall include a statement of enzyme functionality if enzymatic activity is represented in any manner.
- 7.3.3. The purpose of medication (claim statement).
- 7.3.4. An active ingredient statement listing the active drug ingredients by their established name and guarantees for drugs stated in terms of percent by weight, except:
  - 7.3.4.1. Antibiotics present at less than 2,000 grams per ton (total) in a pet or specialty pet food shall be stated in grams per ton of feed.
  - 7.3.4.2. Antibiotics present at 2,000 or more grams per ton (total) in a pet or specialty pet food shall be stated in grams per pound of feed.
  - 7.3.4.3. Labels for commercial feeds containing growth promotion and/or feed efficiency levels of antibiotics, which are to be fed continuously as the sole ration, are not required to make quantitative guarantees except as specifically noted in the Federal Food Additive Regulations for certain antibiotics, wherein, quantitative guarantees are required regardless of the level or purpose of the antibiotic.
  - 7.3.4.4. 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.

## **Part 8. Nutritional Adequacy**

- 8.1. The label of a pet food or specialty pet food which is intended for all life stages of the pet or specialty pet may include an unqualified claim, directly or indirectly, such as "complete and balanced", "perfect", "scientific", or "100% nutritious" if at least one of the following apply:
  - 8.1.1. The product meets the nutrient requirements for all life stages established by an AAFCO-Recognized Nutrient Profile; or
  - 8.1.2. The product meets the criteria for all life stages as substantiated by completion of the appropriate AAFCO-Recognized Animal Feeding Protocol(s); or
  - 8.1.3. 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 AAFCO for all life stages, provided that:

8.1.3.1. The nutritional similarity of the family product can be substantiated according to the appropriate AAFCO Family Guidelines, and

8.1.3.2. The family product meets the criteria for all life stages; and

8.1.3.3. Under circumstances of reasonable doubt, the Commissioner may require the manufacturer to perform additional testing of the family product in order to substantiate the claim of nutritional adequacy.

8.2. The label of a pet food or specialty pet food which is intended for a limited purpose or a specific life stage, but not for all life stages, may include a qualified claim such as “complete and balanced”, “perfect”, “scientific”, or “100% nutritious” when the product and claim meets all of the following:

8.2.1. 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

8.2.2. The product meets at least one of the following:

8.2.2.1. The nutrient requirements for the limited purpose or specific life stage established by an AAFCO-Recognized Nutrient Profile; or

8.2.2.2. The criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate AAFCO-Recognized Animal Feeding Protocol(s); or

8.2.2.3. The product is a member 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:

8.2.2.3.1. The nutritional similarity of the family product can be substantiated according to the appropriate AAFCO Family Guidelines; and

8.2.2.3.2. The family product meets the criteria for such limited purpose; and

8.2.2.3.3. Under circumstances of reasonable doubt, the Commissioner may require the manufacturer to perform additional testing of the family product in order to substantiate the claim of nutritional adequacy.

8.3. 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” or “treat”. The statement shall consist of one of the following:

- 8.3.1. A claim that the dog or cat food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation/lactation, growth, maintenance, and all life stages. The claim shall be stated verbatim as one of the following:
- 8.3.1.1. “(Name of product) is formulated to meet the nutritional levels established by the AAFCO Dog (or Cat) Food Nutrient Profiles for \_\_\_\_.” (Blank is to be completed by using the stage or stages of the pet’s life, such as, gestation/lactation, growth, maintenance 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 be added verbatim to the end of the claim:
    - 8.3.1.1.1. “including growth of large size dogs (70 lb. or more as an adult)” if the product has been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs.
    - 8.3.1.1.2. “except for growth of large size dogs (70 lb. 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
  - 8.3.1.2. “Animal feeding tests using AAFCO procedures substantiate that (Name of Product) provides complete and balanced nutrition for \_\_\_\_.” (Blank is to be completed by using the stage or stages of the pet’s life tested, such as, gestation/lactation, growth, maintenance or the words “All Life Stages”); or
  - 8.3.1.3. “(Name of Product) provides complete and balanced nutrition for \_\_\_\_ (Blank is to be completed by using the stage or stages of the pet’s life, such as gestation, lactation, growth, maintenance or the words “All Life Stages”) and is comparable in nutritional adequacy to a product which has been substantiated using AAFCO feeding tests.”
- 8.3.2. A nutritional or dietary claim for purposes other than those listed in Part 8.1 or 8.2 if the claim is scientifically substantiated; or
- 8.3.3. The statement: “This product is intended for intermittent or supplemental feeding only”, if a product does not meet the requirements of Part 8.1 or 8.2 or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.
- 8.4. A product intended for use by, or under the supervision or direction of a veterinarian shall make a statement in accordance with Part 8.3.1 or 8.3.3.
- 8.5. A signed affidavit attesting that the product meets the requirements of Part 8.1 or 8.2 shall be submitted to the Commissioner upon request.
- 8.6. 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(s) of the intended species, the claimed nutritional adequacy or purpose of the product shall be scientifically substantiated.

- 8.7. The following shall be acceptable as the basis for a claim of nutritional adequacy:
- 8.7.1. An AAFCO-Recognized Nutrient Profile or Nutritional Authority:
    - 8.7.1.1. For dogs, the AAFCO Dog Food Nutrient Profiles;
    - 8.7.1.2. For cats, the AAFCO Cat Food Nutrient Profiles;
    - 8.7.1.3. For specialty pets, a nutrient recommendation approved by the Committee on Animal Nutrition of the National Research Council of the National Academy of Sciences, provided that such nutrient recommendation is recognized only for the specific species of specialty pet for which the profile is intended.
  - 8.7.2. An AAFCO-Recognized Animal Feeding Protocol(s):
    - 8.7.2.1. The AAFCO Dog Food Feeding Protocols; or
    - 8.7.2.2. The AAFCO Cat Food Feeding Protocols.

## **Part 9. Feeding Directions**

- 9.1. Dog or cat food, including snacks or treats, labeled as complete and balanced for any or all life stages, as provided in Part 8.3.1, except those pet foods labeled in accordance with Part 8.4, shall list feeding directions on the product label. These directions shall be consistent with the intended use(s) indicated in the nutritional adequacy statement, unless a limited use or more limited life stage designation is declared elsewhere (e.g., “adult formula”). These directions shall be expressed in common terms and shall appear prominently on the label. Feeding directions shall, at a minimum, state “Feed (weight/unit of product) per (weight only) of dog (or cat)”. The frequency of feeding shall also be specified.
- 9.2. 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.
- 9.3. Specialty pet food, including snacks or treats, labeled as complete and balanced for any or all life stages, as provided in Part 8.1, 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 AAFCO-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.

## **Part 10. Statements of Calorie Content**

- 10.1. Except as required in Part 11, the label of a dog or cat food may bear a statement of calorie content when the label meets all of the following:
  - 10.1.1. The statement shall be separate and distinct from the “Guaranteed Analysis” and shall appear under the heading “Calorie Content”;
  - 10.1.2. The statement shall be measured in terms of metabolizable energy (ME) on an “as fed” basis and shall be expressed as “kilocalories per kilogram” (“kcal/kg”) of product, and may also be expressed as kilocalories per familiar household measure (e.g., cans, cups, pounds); and

10.1.3. The calorie content is determined by one of the following methods:

10.1.3.1. By calculation using the following "Modified Atwater" formula:

$$\text{ME (kcal/kg)} = 10[(3.5 \times \text{CP}) + (8.5 \times \text{CF}) + (3.5 \times \text{NFE})]$$

Where: ME = Metabolizable Energy

CP = % crude protein "as fed"

CF = % crude fat "as fed"

NFE = % nitrogen-free extract (carbohydrate) "as fed"

and the percentages of CP and CF are the arithmetic averages from proximate analyses of at least four production batches of the product, and the NFE is calculated as the difference between 100 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

10.1.3.2. In accordance with a testing procedure established by AAFCO.

10.1.4. An affidavit shall be provided upon request to the Commissioner, substantiating that the calorie content was determined by:

10.1.4.1. Part 10.1.3.1 in which case the results of all the analyses used in the calculation shall accompany the affidavit; or

10.1.4.2. Part 10.1.3.2 in which case the summary data used in the determination of calorie content shall accompany the affidavit.

10.1.5. The calorie content statement shall appear as one of the following:

10.1.5.1. The heading "Calorie Content" on the label or other labeling shall be followed parenthetically by the word "calculated" when the calorie content is determined in accordance with Part 10.1.3.1; or

10.1.5.2. 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 Part 10.1.3.2.

10.2. Comparative claims shall not be false, misleading, or given undue emphasis and shall be based on the same methodology for the products compared.

## **Part 11. Descriptive Terms**

11.1. Calorie Terms

11.1.1. "Light"

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

11.1.1.1.1. Contain no more than 3100 kcal ME/kg for products containing less than 20% moisture, no more than 2500 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 900 kcal ME/kg for products containing 65% or more moisture; and

11.1.1.1.2. Include on the label a calorie content statement:

11.1.1.1.2.1. In accordance with the format provided in Part 10; and

11.1.1.1.2.2. Which states no more than 3100 kcal ME/kg for products containing less than 20% moisture, no more than 2500 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 900 kcal ME/kg for products containing 65% or more moisture; and

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

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

11.1.1.2.1. Contain no more than 3250 kcal ME/kg for products containing less than 20% moisture, no more than 2650 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 950 kcal ME/kg for products containing 65% or more moisture; and

11.1.1.2.2. Include on the label a calorie content statement:

11.1.1.2.2.1. In accordance with the format provided in Part 10; and

11.1.1.2.2.2. Which states no more than 3250 kcal ME/kg for products containing less than 20% moisture, no more than 2650 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 950 kcal ME/kg for products containing 65% or more moisture; and

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

11.1.2. “Less” or “Reduced Calories”

11.1.2.1. 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:

11.1.2.1.1. 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 where the term appears; and

11.1.2.1.2. 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

11.1.2.1.3. A calorie content statement in accordance with the format provided in Part 10; and

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

11.1.2.2. A comparison between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading,

## 11.2. Fat Terms

### 11.2.1. "Lean"

11.2.1.1. A dog food product which bears on its label the terms "lean", "low fat", or words of similar designation shall:

11.2.1.1.1. Contain no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture; and

11.2.1.1.2. Include on the product label in the Guaranteed Analysis:

11.2.1.1.2.1. A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Part 5.1.1; and

11.2.1.1.2.2. A maximum crude fat guarantee which is no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture.

11.2.1.2. A cat food product which bears on its label the terms "lean", "low fat", or words of similar designation shall:

11.2.1.2.1. Contain a maximum percentage of crude fat which is no more than 10% crude fat for products containing less than 20% moisture, no more than 8% crude fat for products containing 20% or more but less than 65% moisture, and no more than 5% crude fat for products containing 65% or more moisture; and

11.2.1.2.2. Include on the product label in the Guaranteed Analysis:

11.2.1.2.2.1. A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Part 4.1.1; and

11.2.1.2.2.2. A maximum crude fat guarantee which is no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but



less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture.

#### 11.2.2. "Less" or "Reduced Fat"

11.2.2.1. 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:

11.2.2.1.1. The name of the product of comparison and the percentage of fat 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 where the term appears; and

11.2.2.1.2. 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

11.2.2.1.3. 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 Part 5.1.1

11.2.2.2. A comparison on the label between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

### **Part 12. Manufacturer or Distributor; Name and Address**

12.1. 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; however, the street address may be omitted if such street address is shown in a current city directory or telephone directory for the city listed on the label.

12.2. 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.

### **Part 13. Adulterants**

13.1. For the purpose of Section 35-60-107(2)(a), C.R.S., of the Colorado Feed Law, the terms "poisonous or deleterious substances" include but are not limited to the following:

13.1.1. Pathogenic bacteria, including but not limited to Salmonella sp., listeria monocytogenes, or escherichia coli O157:H7 found in any detectable amounts.

13.1.2. Aflatoxin B1, B2, G1, G2 above 20 parts per billion (ppb).

### **Part 14. Material Incorporated by Reference**

All materials incorporated by reference into these Rules may be examined at any state publications depository library. For further information on how the incorporated materials may be obtained or examined, please contact the Technical Services Section Chief at the Division of Inspection and Consumer Services, Department of Agriculture, 2331 West 31<sup>st</sup> Avenue, Denver, Colorado 80211.

## **Part 15. False or Incomplete Information**

All information required by the Commissioner from any person in connection with any application for a registration, report, or record required under the Colorado Feed Law must be accurate and complete. Failure to provide accurate and complete information in connection with any such document, including but not limited to providing all documentation required to establish an individual applicant's lawful presence in the United States pursuant to Section 24-76.5-103, C.R.S., shall be grounds for denial of an application for registration or for renewal thereof, or revocation or suspension of an existing registration.

## **Part 16. Commercial Feed Registration**

No person shall manufacture commercial feed within the state or allow his or her name to appear on the label of a commercial feed as guarantor, without first registering with the Department as required by Sections 35-60-103, C.R.S., and 35-60-104. Such registration shall expire on January 31st and may be renewed annually.

## **Part 17. Distribution Fees-Reports**

- 17.1. A distributor who is subject to a tonnage distribution fee required by Section 35-60-105(1), C.R.S., shall file with the Commissioner, no later than January 31st each year, a statement that sets forth the number of net tons of commercial feeds distributed in the state.
- 17.2. A distributor who is subject to the distribution fee for small packages of ten pounds or less shall file with the Commissioner, no later than January 31st each year, a list of all small package products of ten pounds or less that are distributed in this state.
- 17.3. A distributor who is subject to a tonnage distribution fee required by Section 35-60-105(1), C.R.S., and the distribution fee for small packages of ten pounds or less shall comply with both Parts 17.1 and 17.2 of these Rules.

## **Part 18. Statements of Basis, Specific Statutory Authority and Purpose**

### **18.1. Adopted April 10, 2001 – Effective May 30, 2001**

#### **STATUTORY AUTHORITY:**

The Commissioner of Agriculture, Colorado Department of Agriculture, adopts these permanent rules pursuant to the provisions and requirements of the Colorado Commercial Feed Law, § 35-60- 109(1), C.R.S. (2000).

#### **PURPOSE:**

The purpose of these rules is to comply with the requirements of the Colorado Commercial Feed to provide specific guidelines for the manufacture, labeling and distribution of commercial feed.

These rules are designed to:

- Set standards for the correct labeling of livestock and pet food.
- Set standards for good manufacturing practices for medicated livestock feed.

#### **FACTUAL AND POLICY ISSUES:**

The factual and policy issues encountered in the proposal of these permanent rules are as follows:

1. The Colorado Commercial Feed Law was repealed and reenacted effective January 1, 2000. That statute requires the Commissioner to adopt the Official Definitions of Feed Ingredients and Official Feed Terms adopted by the Association of American Feed Control Officials, Inc. AAFCO), as published in the official publication of such association.
2. These new, revised rules are based upon national standard (model) regulations developed by AAFCO, a nation-wide group of regulatory officials. They are specifically for the purpose of promoting standardization between states for the animal feed industry.
3. Over 30% of the states have adopted the AAFCO model regulations. These rules are widely accepted by Colorado and national feed companies. Adoption of these rules would help to ensure uniform labeling requirements.
4. The Department met with the Colorado Grain and Feed Association's (CFGFA) Feed Committee throughout the rule drafting process. The CGFA supports these new rules and regulations.
5. Two sets of rules are needed, one for livestock feed, the other for pet food. Livestock feed rules are specific to matters regarding production, animal growth and weight gain, and use of medications in feed. Pet food rules employ separate criteria for complete and balanced nutrition and provide regulatory guidance for advertising and claims frequently found on pet food labels.

## **18.2. Adopted November 1, 2007 – Effective December 30, 2007**

### STATUTORY AUTHORITY

These amendments are proposed for adoption by the Commissioner pursuant to his authority in section 35-60-109(1), C.R.S.

### PURPOSE

The purposes of these amendments are as follows:

- (a) To amend the name of the Act used in the Rules to correspond with the new name adopted under Senate Bill 07-207.
- (b) To amend the listing of guarantees from an "as fed" basis to an "as is" basis.
- (c) Modify the definition of "pet."
- (d) Update the references to the official publications of the Association of American Feed Control Officials (AAFCO) incorporated by reference to the 2007 version.
- (e) To add section 14 to contain the Statements of Basis, Specific Statutory Authority and Purpose.
- (f) To correct typographical errors.

### FACTUAL BASIS

- (a) On May 22, 2007, the Colorado Commercial Feed Law was amended by Senate Bill 07-207. The title of the law was amended to the Colorado Feed Law.

- (b) The current rules require the guaranteed analysis to be listed on an “as fed” basis. The AAFCO national standard requires it to be listed on an “as is” basis.
- (c) The AAFCO national standard definition of “pet” means dog or cat.

### **18.3. Adopted February 11, 2015 – Effective March 30, 2015**

The Commissioner's authority for the adoption of these permanent Rule amendments is set forth in Section 35-60-109(1), C.R.S.

The Purpose of this rulemaking is to:

1. Edit Part 1 Legal Authority to include all rulemaking authority in 35-60, C.R.S.
2. Update the references throughout the Rules to the official publication of the Association of American Feed Control Officials (AAFCO) incorporated by reference to the 2015 version.
3. Add Part 2.3 to specify the commodities that are exempted from the definition of “commercial feed”, and to define when that exemption does not apply.
4. Edit Part 2.15 and 2.18 for clarity.
5. Add Part 3.9 to specify raw pet food labeling requirements to include safe handling directions on the label.
6. Amend Part 4.2.1 product name requirements for pet foods to give manufacturers more flexibility when using the “95% rule.”
7. Amend Part 4.2.2 for clarity and uniformity.
8. Add Part 5.10 to specify labeling exemptions for pet food items made from animal skin and/or cartilage to allow these products to be distributed without a guaranteed analysis statement.
9. Add Part 13 (adulterants), Part 15 (false or incomplete information), Part 16 (commercial feed registration), and Part 17 (distribution fees-reports).
10. Correct typographical errors.
11. Reformat Rules to meet new rulemaking guidelines.

#### **Factual and Policy Basis**

The factual and policy issues pertaining to the adoption of these permanent Rule amendments are as follows:

1. The previous version of these Rules did not include the rulemaking authority under Section 35-60-102(2), C.R.S.
2. Numerous changes to the AAFCO publication have occurred since the printing of the 2007 version which is referenced in the Rules. This change will make our Rules more consistent with other states' feed Rules.
3. This Rule needed to be added to make the Pet Food Rules a stand-alone set of Rules.

4. Raw pet food safe handling labeling requirements are needed to ensure the safe use of these type products.
5. When the Rule was originally drafted, manufacturers typically only used meat ingredients in the product name. Current pet food products incorporate many ingredients that, under the current Rule, cannot be used as part of the product name. This change will allow manufacturers more flexibility with naming products.
6. The industry standard for labeling of rawhide pet treats does not include a guaranteed analysis statement. This eliminates the need for national distributors to re-label their products.
7. Parts 13, 15, 16 and 17 were previously sub-Rules under 1202-6 (Rules for Commercial Feed). Parts 13, 15, 16, and 17 have been copied from 8 CCR 1202-6 and duplicated in 8 CCR 1202-7 (Rules for Pet Food) in order to make the Pet Food Rules a stand-alone set of rules.
8. These amendments incorporate changes as a result of the Department's Regulatory Efficiency Review Process.

#### **18.4. Adopted February 10, 2016- Effective March 30, 2016**

The Commissioner's authority for the adoption of this permanent Rule amendment is set forth in Section 35-60-109(1), C.R.S.

The Purpose of this rulemaking is to:

1. Add Part 3.1.9 to include the requirement of the date of manufacture, processing, packaging, or repackaging or a code that permits the determination of the date to be included in the label.

##### **Factual and Policy Basis**

The factual and policy issue pertaining to the adoption of this permanent Rule amendment is as follows:

1. The date of manufacture, processing, packaging, or repackaging or a code that permits the determination of the date as required in Section 35-60-106(1)(g), C.R.S., is being added to the Rule so that the Rule will contain the complete requirements for labeling a pet food product.

#### **18.5. Adopted November 9, 2016- Effective December 30, 2016**

The Commissioner's authority for the adoption of this permanent Rule amendment is set forth in § 35-60-103(1), § 35-60-105(3)(a), and § 35-60-105(4), C.R.S.

The Purpose of this rulemaking is to:

Change the date in Part 16 and Parts 17.2 for registrations and the due date for small package distribution reports and fees to January 31st.

The factual and policy issue pertaining to the adoption of this permanent Rule amendment is as follows:

1. Currently, feed registrants have to log into the Department's licensing system at separate times of the year to complete the registration and reporting process. This can be burdensome to registrants and be prone to mistakes.

2. After consulting with industry stakeholders, the Department has proposed to synchronize all deadlines associated with the larger registration process to make the process more efficient for registrants.

## **18.6. Adopted September 20, 2017 – Effective November 30, 2017**

### Statutory Authority

The Commissioner's authority for the adoption of this permanent Rule amendment is set forth in § 35-60-109(1) C.R.S.

### Purpose

The purpose of this rulemaking is to update references throughout the Rules to the official publication of the Association of American Feed Control Officials (AAFCO) incorporated by reference to the 2017 version; clarify net quantity labeling requirements; update nutritional adequacy requirement labeling for dogs; update calorie content labeling requirements; and clarify the quantity of certain pathogenic organisms that are adulterants in pet food and harmful to human health.

### Factual Policy and Issues

1. Numerous changes to the AAFCO publication have occurred since the printing of the 2015 version which is referenced in the rules. The change to the 2017 version is reflected throughout the rule. Updating the rule to follow the 2017 AAFCO Model regulations will make our rules more consistent with other states' feed rules. This is reflected by the changes to Part 3.1.3. Quantity Statement, Part 8.3. Nutritional Adequacy Statements, and Part 10.1.5. Calorie Content Statements.
2. Due to the safety concerns related to humans handling pet foods containing salmonella, listeria monocytogenes and e. coli o157:h7, this change to Part 13.1.1. clarifies that these pathogens are adulterants in any detectable amount.
3. These amendments incorporate changes as a result of the department's regulatory efficiency review process.