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The Kansas Commercial Feeding Stuffs Law

K.S.A. 2-1001. Definition of terms. (A) The term "commercial feeding stuffs" shall be held to include all feeding stuffs used for feeding livestock, poultry and pets, including customer formula feed, except the following:

- (a) Whole seeds or grains.
- (b) The unmixed meals made directly from and consisting of the entire grains of corn, wheat, rye, barley, oats, buckwheat and grain sorghum.
- (c) Whole hays, straws, silage, cobs, husks, hulls and stover, when unmixed with other materials.
- (d) All other materials, except pet foods, consisting of sixty per centum (60%) or more of water.
- (e) Custom mixed feeds.

(B) The term "label" or "labeling" means a display of written, printed or graphic matter on or affixed to the container in which the commercial feeding stuffs is distributed, or on the invoice or delivery slip with a commercial feeding stuffs distributed in bulk.

(C) The term "customer formula feed" means a mixture of feeding stuffs, or a mixture of feeding stuffs and other materials, each lot of which is formulated subsequent to the request of an individual purchaser to contain a specific content of ingredients, protein, vitamin, drug or other guarantee.

(D) The term "custom mixed feed" means a mixture of feed ingredients, or a mixture of feed ingredients and other materials, which are supplied to the owner of the mixing equipment, and are mixed for the owner of the ingredients without any guarantee on the part of the owner of the mixing equipment as to the nutritional or chemical content of the resulting mixture.

(E) The term "pet food" means any commercial feeding stuffs prepared and distributed for consumption by pets.

(F) The term "pet" means any domesticated vertebrate animal normally maintained in or near the household of the owner thereof.

(G) The term "specialty pet food" means any commercial feeding stuffs prepared and distributed for consumption by specialty pets.

(H) The term "specialty pet" means any domesticated animal pet normally maintained in a cage or tank, including but not limited to gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes and turtles.

K.S.A. 2-1002. Tagging or labeling; statements. Every lot, package, bag or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed within this state shall have printed or stenciled thereon or affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language clearly and truthfully stating:

- (a)(1) The net weight of the contents of the package, bag or parcel;
- (2) the name of the feeding stuffs;
- (3) the name and principal address of the manufacturer, or person responsible for placing the commodity on the market;
- (4) the minimum percentage of crude protein;
- (5) the minimum percentage of crude fat;
- (6) the maximum percentage of crude fiber; and
- (7) the specific name of each ingredient used in the manufacture of the feeding stuff;
- (b) and for mineral feeding stuffs, materials either mixed or unmixed, used as mineral supplements for the

purpose of supplying mineral elements, in addition to the information required by subsections (a)(1), (a)(2), (a)(3) and (a)(7), the following, if present:

- (1) the minimum and maximum percentage of calcium (Ca);
 - (2) the minimum percentage of phosphorus (P);
 - (3) the minimum percentage of iodine (I); and
 - (4) the maximum percentage of salt (NaCl);
- (c) and for feeding stuffs to which more than 5% of mineral ingredients or unmixed materials used as mineral supplements for the purpose of supplying mineral elements have been added, the information required in subsections (a) and (b);
- (d) and for vitamin products, carriers and preparations, and for feeding stuffs containing urea, minerals or drugs, in addition to the information as may be otherwise required by this section, such information and guarantees as the secretary of agriculture shall determine and prescribe as necessary to fully inform and protect purchasers; and when the feeding stuffs or any of its ingredients are potentially dangerous to the health of animals;
- (1) adequate directions for use; and
 - (2) adequate warnings;
- (e) and for customer formula feeds, the following information shall be shown on the label, delivery statement, or invoice, in lieu of the requirements of subsections (a), (b), (c), and (d), such label, delivery statement or invoice, shall accompany delivery and shall be supplied to the purchaser at the time of delivery of such feed:
- (1) Name and address of the mixer;
 - (2) name and address of the purchaser;
 - (3) date of sale;
 - (4) the product name and brand name, if any, and the number of pounds of each registered commercial feeding stuffs used in the mixture, and the name and number of pounds of each other feed ingredient added;
 - (5) the percentage or quantity of protein, vitamin, mineral or other nutritive component, which the purchaser specifies the feed shall contain;
 - (6) if it contains a nonnutritive substance, which is intended for use in the cure, mitigation, treatment, or prevention of disease, or which is intended to affect the structure or any function of the animal body, the amount of such substance present, the directions for use, and warnings against misuse of the feed, and adequate withdrawal periods; and
- (f) bulk lots of commercial feeding stuffs, other than customer formula feeds, shall be accompanied by a label and presented to the purchaser or tacked on the bin at the time of delivery of the feed.

K.S.A. 2-1004. Sale of commercial feeding stuffs; inspection fee; annual fee; permit; tonnage report; delinquency fee. (a)(1) On and after the effective date of this act through June 30, 1999, each manufacturer, importer, jobber, firm, association, corporation or person, manufacturing or selling any commercial feeding stuffs, shall pay to the Kansas department of agriculture an inspection fee of \$.105 per ton of 2,000 pounds, or fraction thereof, for each commercial feeding stuffs sold, offered or exposed for sale or distributed in this state.

(2) On and after July 1, 1999, each manufacturer, importer, jobber, firm, association, corporation or person, manufacturing or selling any commercial feeding stuffs, shall pay to the Kansas department of agriculture an inspection fee of \$.10 per ton of 2,000 pounds, or fraction thereof, for each commercial feeding stuffs sold, offered or exposed for sale or distributed in this state.

(b) Each manufacturer, importer, jobber, firm, corporation, association of persons or person shall report to the Kansas department board of agriculture the tonnage of commercial feeding stuffs sold and shall pay the inspection fee on the basis of such report.

(c) In the case of specialty pet foods or pet foods which are distributed in the state in packages of 10 pounds or less, an annual fee of \$25 shall be paid in lieu of the inspection fee.

(d) In the case of specialty pet foods which is distributed in the state in packages of one pound or less, an annual fee of \$15 shall be paid in lieu of the inspection fee.

(e) The minimum inspection fee shall be \$15 and shall be paid semiannually.

(f) The applicant shall keep such records as may be necessary to indicate accurately the tonnage of commercial feeding stuffs sold, and as are satisfactory to the secretary, and granting the secretary or the secretary's duly authorized representative permission to verify the statement of tonnage. The report shall be filed with the secretary of agriculture, and the report of tonnage and inspection fee shall be due semiannually on the first day of January and the first day of July, covering the tonnage of commercial feeding stuffs sold the preceding six months.

(g) If more than one manufacturer, importer, jobber, firm, association, corporation or person is involved in the chain of distribution, the manufacturer, importer, jobber, firm, association, corporation or person who first sells or distributes a commercial feeding stuff for further sale or distribution in this state shall be responsible for payment of the applicable inspection fee for each commercial feeding stuff sold or distributed by the manufacturer, importer, jobber, firm, association, corporation or person.

(h) No inspection fee shall be required for any commercial feeding stuff sold under the name and label of another licensee if the inspection fee has or will be paid by a prior manufacturer, importer, jobber, firm, association, corporation or person in the chain of distribution as evidenced by an invoice or sales receipt.

(i) No inspection fee shall be required for any commercial feeding stuff on which the inspection fee has or will be paid by a prior manufacturer, importer, jobber, firm, association, corporation or person in the chain of distribution as

evidenced by an invoice or sales receipt.

(j) If inspection fees, which are due and owing, have not been remitted to the secretary within 30 days following the due date or if the report of tonnage is not accurate, the secretary shall impose a delinquency fee equal to 10% of the amount due or \$50, whichever is greater. Such delinquency fee shall be in addition to the amount due.

**ORDER OF SECRETARY
K.S.A. 2-1004**

STATE OF KANSAS
BEFORE THE KANSAS DEPARTMENT OF AGRICULTURE

ORDER REDUCING FEEDING STUFFS INSPECTION FEE

Pursuant to K.S.A. 2-1004a, the Secretary finds as follows:

1. K.S.A. 2-1004(a)(2) provides that each manufacturer, importer, jobber, firm, association, corporation or person manufacturing or selling any commercial feeding stuffs shall pay to the Kansas department of agriculture an inspection fee of \$.10 per ton of 2,000 pounds, or fraction thereof, for each commercial feeding stuffs sold, offered or exposed for sale or distributed in this state.

2. K.S.A. 2-1004a states that the Secretary is authorized to reduce the fees and charges provided by K.S.A. 2-1004 as deemed justified for a period not less than one year when it has been determined that the fees and charges are yielding more than sufficient revenue for the purposes for which such fees are devoted as provided in K.S.A. 2-1012.

3. By order of the Secretary, the inspection fee was reduced to \$.08 per 2,000 pounds or fraction thereof effective with the semi-annual tonnage reports due January 1, 2003.

3. The Secretary has determined that the revenue from the inspection fees is in excess of that required for the purposes for which the fees are devoted by law. Therefore, the inspection fee should be decreased.

IT IS THEREFORE ORDERED THAT:

1. The inspection fee established in K.S.A. 2-1004(a)(2) shall be reduced to the sum of \$.05 per 2000 pounds or fraction thereof of commercial feedstuffs sold, offered or exposed for sale or distributed in Kansas.

2. The inspection fee of \$.05 shall be applicable to feedstuffs tonnage reported for the semi-annual tonnage reports due January 1, 2010 and July 1, 2010 and thereafter.

3. This Order shall remain in effect until otherwise modified by the Secretary as authorized by law.

Date: 6/19/09

/s/ Adrian J. Polansky _____
Adrian J. Polansky
Secretary
Kansas Department of Agriculture

K.S.A. 2-1004a. Inspection fee; reduction and restoration, when. The secretary of agriculture is hereby authorized and empowered, whenever the secretary shall determine that the fees and charges provided by K.S.A. 2-1004, and amendments thereto and paid into the state treasury as provided by law, are yielding more than is required for the purposes to which such fees and charges are devoted by law, to reduce such fees and charges for such period as deemed justified, but not less than one year; and in the event that the secretary, after reducing any such fees or charges, finds that sufficient revenues are not being produced by such reduced fees and charges, the secretary is authorized and empowered to restore in full or in part said fees and charges, or any of them, to such rates as will, in the secretary's judgment, produce sufficient revenues for the purposes as provided in K.S.A. 2-1012, and amendments thereto, but not exceeding those now provided by K.S.A. 2-1004, and amendments thereto.

K.S.A. 2-1006. Lowering or change of analysis; determination by the secretary. The secretary or a duly authorized representative of the secretary shall have the power to refuse to allow any manufacturer, importer, jobber, firm, association, corporation, or person to lower the guaranteed analysis or change the ingredients of any brand of such entity's commercial feeding stuffs unless satisfactory reasons, as determined by the secretary or a duly authorized representative of the secretary, are presented for making such change or changes.

K.S.A. 2-1008. Samples for analysis, entry on premises, application; stop sale orders; judicial review. (a) The secretary and the duly authorized representatives thereof shall have free access to all places of business, mills, buildings and vessels, of whatsoever kind, used in the manufacture, transportation, importation, sale or storage of any commercial feeding stuffs and may open any parcel containing, or supposed to contain, any commercial feeding stuffs and may take therefrom, in the manner prescribed in K.S.A. 2-1009 and amendments thereto, samples for analysis and shall pay the retail price of the sample or samples procured. Before entering the premises, the representatives of the Kansas department of agriculture shall make application to party or parties in charge of any manufacturer, importer, jobber, firm, association, corporation or person who sells, offers, or exposes for sale or distributes in this state any commercial feeding stuffs.

(b) The secretary or a duly authorized representative thereof, acting as the enforcing officer, may issue and enforce a written or printed stop sale order to the owner or custodian of any quantity of commercial feeding stuffs which the secretary or the duly authorized representative of the secretary determines to be misbranded or adulterated or contains or may contain any substance injurious to public health or the health of livestock, poultry or pets or which are sold, offered or exposed for sale in violation of any of the statutes contained in article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto or any rules and regulations adopted thereunder. The stop sale order shall prohibit further sale and movement of such commercial feeding stuffs, except on approval of the enforcing officer, until the enforcing officer has evidence that the law and rules and regulations have been complied with and issues a release from the stop sale order. Any stop sale order issued pursuant to this subsection is subject to review in accordance with the Kansas judicial review act. The provisions of this subsection shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions of the statutes contained in article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto.

History: L. 1923, ch. 105, § 8; R.S. 1923, § 2-1008; L. 1985, ch. 9, § 1; L. 1986, ch. 318, § 10; L. 1994, ch. 233, § 3; L. 2001, ch. 59, § 1; L. 2004, ch. 101, § 155; July 1; amended 2010.

K.S.A. 2-1009. Analysis of samples; procedure. (a) A representative sample of each brand of commercial feeding stuffs found, sold, offered or exposed for sale shall be taken by the secretary or the secretary's duly authorized representative. Except as provided in subsection (b), no action shall be maintained for a violation of the provisions of this act, based upon an analysis of a sample from less than five separate original packages, unless there be less than five separate original packages in the lot, in which case portions for the official sample shall be taken from each original package. If the commercial feeding stuffs is in bulk, portions shall be taken from not less than five different places in the lot. This does not exclude sampling in bulk when not exposed sufficiently to take portions from five different places, in which case portions are to be taken from as many places as practicable. If the sample thus secured is larger than is required, it shall be mixed and quartered until a sample of suitable size remains. Such sample shall be placed in a container and sealed. The secretary shall analyze the sample or cause it to be analyzed and the results of such analysis, together with such additional information as the secretary may deem advisable, shall be promptly transmitted to the manufacturer, or person responsible for the placing of the commodity on the market, and may be published in reports or bulletins from time to time. The manufacturer or person responsible for the placing of any commodity so sampled upon the market shall upon request to the secretary be furnished with a portion of the official sample referred to in this section.

(b) For canned pet food, a single package of the pet food shall be deemed to be a representative sample upon which action may be taken.

K.S.A. 2-1010. Prosecutions; notice and hearing. If it appears that any provisions of this act have been violated, the secretary shall certify the facts to the proper prosecuting attorney and furnish that officer with a copy of the result of the analysis or other examination of such feeding stuffs duly authenticated by the analyst or other officer making the determination, under the oath of such officer. If it shall appear from any such examination that any provisions of this act have been violated the secretary shall cause notice to be given to the manufacturer or dealer from whom the sample was taken; any party so notified shall be given an opportunity to be heard in defense under such rules and regulations as may be prescribed by the secretary of agriculture before the facts shall be certified to the proper prosecuting attorney. In all prosecutions arising under the provisions of this act, certificates of the analyst making the analysis, when duly sworn to by such analyst shall be prima facie evidence of the fact or facts therein certified.

K.S.A. 2-1011. Violations; civil and criminal penalties; seizure proceedings. (1) It shall be deemed a violation of this act for any manufacturer, importer, jobber, firm, association, corporation or person to sell, offer or expose for sale, or distribute in this state any commercial feeding stuffs:

(A) Unless the manufacturer, importer, jobber, firm, association, corporation or person has been issued a license for each manufacturing or distribution facility pursuant to K.S.A. 2-1014, and amendments thereto;

(B) which is not labeled as required by law;

(C) which bears a false or misleading statement on the label or the advertising accompanying the commercial feeding stuffs; (D) which is adulterated or contains any substance or substances which may render the commercial feeding stuffs injurious to public health or the health of livestock, poultry and pets.

(2) It shall be deemed a violation of this act for any manufacturer, importer, jobber, firm, association, corporation or person to:

(A) Mutilate, destroy, obliterate or remove the label or any part thereof, or do any act which may result in the misbranding or false labeling of such commercial feeding stuffs;

(B) fail or neglect to file the tonnage report and pay the inspection fee due thereon as required;
(C) file a false report of the tonnage of feeding stuffs sold for any period;
(D) impede, obstruct, hinder or otherwise prevent or attempt to prevent the secretary or the secretary's authorized agents in the performance of any duty in connection with the enforcement of the provisions of article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto.

(3) Any manufacturer, importer, jobber, firm, association, corporation or person who shall violate any of the provisions of article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto or the rules and regulations adopted, may incur a civil penalty in an amount not more than \$1,000 per violation, and in the case of a continuing violation every day such violation continues may be deemed a separate violation. Such civil penalty may be assessed in addition to any other penalty provided by law. Any civil penalty assessed pursuant to this subsection is subject to review in accordance with the Kansas judicial review act.

(4) Any manufacturer, importer, jobber, firm, association, corporation or person who shall violate any of the provisions of article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto or the rules and regulations adopted, in a willful or wanton manner shall be guilty of a class A, nonperson misdemeanor.

(5) Any commercial feeding stuffs misbranded or adulterated or containing or suspected of containing any substance or substances injurious to public health or the health of livestock, poultry or pets or which is offered or exposed for sale in violation of any of the provisions of article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto shall be subject to seizure in place until such time that the final disposition of the affected feeding stuffs has been determined by sampling and analysis. Within 30 days of seizure in place, upon verification that the suspected feeding stuffs are misbranded, adulterated or contain a substance or substances that may be injurious to public health or the health of livestock, poultry or pets, the secretary shall issue an order establishing measures to prevent further contamination or the threat to public or animal health. The opportunity for hearing pursuant to the Kansas administrative procedure act shall be provided upon issuance of the order. The secretary may order the destruction of contaminated feeding stuffs if no alternative assures that further contamination or health hazards are averted, and may be imposed in addition to any other penalty established by law. The district courts of the state of Kansas shall have jurisdiction to restrain violations of this act by injunction.

History: L. 1923, ch. 105, § 11; R.S. 1923, § 2-1011; L. 1945, ch. 2, § 3; L. 1971, ch. 2, § 2; L. 1979, ch. 4, § 3; L. 1994, ch. 233, § 4; L. 2001, ch. 59, § 2; July 1; amended 2010.

K.S.A. 2-1012. Disposition of moneys received; feeding stuffs fee fund. The secretary shall remit all moneys received by or for the secretary under article 10 of chapter 2 of Kansas Statutes Annotated, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the feeding stuffs fee fund. All expenditures from the feeding stuffs fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the Kansas department of agriculture or by a person or persons designated by the secretary.

K.S.A. 2-1013. Enforcement by secretary of board; rules and regulations; establishment of terms for certain ingredients. (a) The secretary of agriculture is hereby empowered to:

(1) Enforce the provisions of article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto;
(2) prescribe the form of labels to be used; and
(3) adopt and enforce rules and regulations relating to manufacturing practices for commercial feeding stuffs and to the sale, offering for sale or distribution of commercial feeding stuffs as the secretary may deem necessary to carry into effect the lawful intent and meaning of article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto.

(b) The secretary, by rules and regulations, may establish a collective term or terms for two or more ingredients, which ingredients serve a similar nutritional function, and may permit the use of such collective term or terms in the ingredient statement on the label.

(c) Nothing in article 10 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, shall be construed as requiring the secretary or the authorized representative of the secretary to report for prosecution, institute seizure proceedings or issue a withdrawal from distribution order for any minor violations of article 10 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, whenever the secretary or the authorized representative of the secretary believes that the public interest will be best served by a suitable notice of warning in writing.

K.S.A. 2-1014. Commercial feed license; fee; renewal; grounds to deny application or suspend license. (a) No manufacturer, importer, jobber, firm, association, corporation or person shall sell, offer or expose for sale or distribute in this state any commercial feeding stuffs unless such person holds a valid license for each manufacturing or distribution facility in this state. No license shall be required of persons distributing only packages or containers of a licensed manufacturer, importer, jobber, firm, association, corporation or person as packaged and labeled by the manufacturer, importer, jobber, firm, association, corporation or person and whose name and address appear on the label as required in K.S.A. 2-1002, and amendments thereto. Any out-of-state manufacturer, importer, jobber, firm, association, corporation or person who has no distribution facility within this state shall obtain a license for such entity's principal out-of-state office if such out-of-state manufacturer, importer, jobber, firm, association, corporation, person or other entity sells, offers or exposes for sale or distributes any commercial feeding stuffs in this state. Application shall be made on

forms prescribed and furnished by the secretary of agriculture. The application shall be accompanied by an annual license fee of \$10. Licenses shall be renewed annually on or before July 1.

(b) The secretary, pursuant to rules and regulations, may deny, suspend, revoke or refuse to renew the commercial feed license if the applicant or the licensee of any manufacturing or distribution facility is not in compliance with the provisions of article 10 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto and any rules and regulations promulgated thereunder. The secretary may deny, suspend, revoke or refuse to renew any commercial feed license subsequently found not to be in compliance with any provision of article 10 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto and any rules and regulations promulgated thereunder. No commercial feed license shall be denied, suspended, revoked or refused renewal unless the applicant or licensee has been given an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act.

(c) The secretary, pursuant to rules and regulations, may request copies of labels and labeling in order to determine compliance with the requirements of article 10 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto.

K.S.A. 74-568. State board of agriculture and secretary of the state board of agriculture abolished; transfer of power and duties to the department of agriculture and secretary of agriculture. (a) The state board of agriculture created by K.S.A. 74-503, and amendments thereto, and the office of the secretary of the state board of agriculture created by K.S.A. 74-503, and amendments thereto, are hereby abolished.

(b) Except as otherwise provided by this act, all of the powers, duties and functions of the existing state board of agriculture and the existing secretary of the state board of agriculture are hereby transferred to and conferred and imposed upon, the department of agriculture and the secretary of agriculture established by this act.

(c) Except as otherwise provided by this act, the department of agriculture and the secretary of agriculture established by this act shall be the successor in every way to the powers, duties and functions of the state board of agriculture and the secretary of agriculture in which the same were vested prior to the effective date of this act. Every act performed in the exercise of such powers, duties and functions by or under the authority of the department of agriculture or the secretary of agriculture established by this act shall be deemed to have the same force and effect as if performed by the state board of agriculture or the secretary of the state board of agriculture, respectively, in which such powers, duties and functions were vested prior to the effective date of this act.

(d) Except as otherwise provided by this act, whenever the state board of agriculture, or words of the like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of agriculture established by this act.

(e) Except as otherwise provided by this act, whenever the secretary of the state board of agriculture, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of agriculture established by this act.

(f) All rules and regulations of the state board of agriculture or the secretary of the state board of agriculture in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of agriculture by this act until revised, amended or nullified pursuant to law.

(g) All rules and regulations of the division of water resources of the state board of agriculture or the chief engineer of the division of water resources of the state board of agriculture in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the chief engineer of the division of water resources of the department of agriculture established by this act until revised, amended, revoked or nullified pursuant to law.

(h) All orders and directives of the state board of agriculture or the secretary of the state board of agriculture in existence in the effective date of this act shall continue to be effective and shall be deemed to be orders and directives of the secretary of agriculture established by this act, until revised, amended or nullified pursuant to law.

(i) On the effective date of this act, the secretary of agriculture shall succeed to whatever right, title or interest the state board of agriculture has acquired in any real property in this state, and the secretary shall hold the same for and in the name of the state of Kansas. On and after the effective date of this act, whenever any statute, contract, deed or other document concerns the power or authority of the state board of agriculture or the secretary of the state board of agriculture to acquire, hold or dispose of real property or any interest therein, the secretary of agriculture shall succeed to such power or authority.

(j) The secretary of agriculture established by this act shall be continuations of the state board of agriculture and the secretary of the state board of agriculture.

Administrative Regulations

DEFINITIONS

K.A.R. 4-3-2. Definitions. (a) International chick unit of vitamin D is the activity produced by one unit of vitamin D in the U. S. pharmacopoeia "vitamin D reference standard" determined according to the method of the association of official agricultural chemists.

(b) "U.S.P." means the United States pharmacopoeia, volume XIII.

(c) "Cude protein" and "protein" means the product of the amount of nitrogen times the factor 6.25.

- (d) "Person" means individuals, partnerships, associations or persons, and corporations.
- (e) Livestock. "Livestock" means and includes horses, mules, cattle, sheep, swine and goats.
- (f) Poultry. "Poultry" means fowl raised for meat, eggs, or feathers, and includes chickens, ducks, guineas, geese, turkeys and pigeons.

LABELING

K.A.R. 4-3-3. Legibility and conspicuousness. (a) A word, statement, or other information required by or under the authority of the act or these regulations to appear on the label may lack that legibility and conspicuousness by reason of:

- (1) The failure of this word, statement, or information to appear on the part or panel of the label which is presented or displayed under customary conditions of purchase;
- (2) The insufficiency of label space for the prominent placing of this word, statement or information resulting from the use of label space for any word, statement, design, or device which is not required by or under authority of the act to appear on the label; and
- (3) Smallness of style or type in which this word, statement, or information appears, insufficient background contrast; obscuring designs or vignettes; or crowding with other written, printed, or graphic matter.

K.A.R. 4-3-5. The name. (a) The name shall not be misleading or deceptive, or tend to mislead or deceive as to the materials of which the commercial feeding stuffs is composed. The name of a non-medicated feed shall be considered misleading or deceptive if:

- (1) It includes or suggests the name of one or more but not all of the ingredients, even though the names of all these ingredients are stated elsewhere on the label;
- (2) It indicates or suggests that the commercial feeding stuffs is intended or adapted for a specific use, unless the character, quality and nutritive composition of the product is satisfactory for the purpose;
- (3) It contains the word "vitamin" or a contraction of it, or any word suggesting vitamin, unless the product is represented solely as a vitamin supplement and is labeled with the minimum vitamin content guaranteed as specified in K.A.R. 4-3-8;
- (4) The word "dehydrated" appears in the name of an alfalfa product or in connection with it, unless the product has been produced from the freshly cut alfalfa plant, having a moisture content of not less than fifty (50) percent and had been artificially dried at a temperature of at least one hundred (100) degrees centigrade or two hundred and fifteen (215) degrees fahrenheit for a period of not more than forty (40) minutes and containing no admixture of sun-cured products;
- (5) The germ has been wholly or partially removed from the product, unless the word "degermed" precedes the name;
- (6) The word "defluorinated" is used as a part of it, and the product contains more than one (1) part of fluorine (F) to forty (40) parts of phosphorus (P);
- (7) Superlative, ambiguous, or doubtful terms are used as a part of it, such as "perfect" or "best," unless followed by the word "brand"; and
- (8) The word "iodized" is used as a part of it unless the product contains more than .007% iodine (I), uniformly distributed.

K.A.R. 4-3-6. Name and address of manufacturer. An unqualified name and address given on the label shall mean the name and address of the manufacturer. If the registrant's name appears on the label and the registrant is not the manufacturer, or if the name of the person for whom manufactured appears on the label, it shall be qualified by appropriate wording such as "packed for . . .," "distributed by . . .," or "sold by . . .," to show that the name is not that of the manufacturer. When a person manufactures commercial feeding stuffs in two (2) or more places or in a place different from the manufacturer's principal office, the actual place of manufacture of each package need not be stated on the label except when the failure to name it may be misleading to the public.

K.A.R. 4-3-7. Ingredient statement. (a) The specific name of each ingredient or collective term or terms shall be shown on the label. When a collective term or terms for a group of ingredients is used on the label, individual ingredients within the group shall not be listed on the label. The manufacturer shall provide upon request a listing of individual ingredients within a defined group. The specific name or collective term or terms shall be those products for which a definition or standard has been adopted. If the ingredient is a product that has not been defined, the name shall be descriptive and as approved by the secretary.

- (b) If screenings are used as an ingredient, the source and condition shall be indicated.
- (c) A statement of quality or grade of an ingredient shall not appear on the ingredient statement.
- (d) A statement of vitamin content of an ingredient shall not appear in the ingredient statement, or any other part of the label, unless this statement is a guarantee of minimum vitamin content of the entire product given in terms as specified in K.A.R. 4-3-8.
- (e) Statements or words explaining or qualifying the name of an ingredient shall not be used.

K.A.R. 4-3-8. Vitamin products, carriers and preparations. Vitamin products, carriers and preparations shall be labeled to show information or guaranties as to vitamin content in milligrams per pound, except that vitamin A shall be stated in United States pharmacopoeia (U.S.P.) units per pound, vitamin D in products offered for poultry feeding in international chick units per pound, vitamin D for other uses in U.S.P. units per pound.

K.A.R. 4-3-9. Feeds containing drug ingredients. Commercial feeding stuffs containing drug ingredients intended or represented for the cure, mitigation, treatment or prevention of any disease or ailment of livestock and/or poultry, and substances other than feeds intended to affect the structure or any function of the body of livestock and/or poultry, shall be labeled to show, in addition to the other information required by the act:

(a) The name of each therapeutically active ingredient or agent stated as such and listed separately from other ingredients.

(b) Adequate directions for use.

(c) Adequate warnings against use under those conditions in which its use may be dangerous to health: Provided, however, That the terms "drug" and "substance" as used herein do not apply to vitamin, mineral, or other materials used solely for nutritional purposes, and not present in therapeutic amounts.

K.A.R. 4-3-10. Urea. Urea and ammonium salts of carbonic and phosphoric acids are acceptable ingredients in proprietary cattle, sheep and goat feeds only; that these materials shall be considered adulterants in proprietary feeds for other animals and birds; and that the following statement of guaranty of crude protein for feeds containing these materials be used:

Crude Protein, not less than _____ percent. (This includes not more than _____ percent equivalent protein from non-protein nitrogen.)

If feed contains more than three percent of urea, or if the equivalent protein contributed by urea exceeds 1/3 of the total crude protein, the label shall bear a statement of proper usage, and the following statement in type of such conspicuousness as to render it likely to be read and understood by ordinary individuals under customary conditions of purchase and use:

WARNING: This feed should be used only in accordance with directions furnished on the label.

REGISTRATION

K.A.R. 4-3-11. Registration. (a) After a commercial feeding stuffs is registered under the act, no further registration is required by persons selling the product, provided it remains in the registrant's properly labeled, original unbroken, immediate container.

(b) Registration shall be effective on the date the registration is issued.

(c) The secretary may refuse registration if:

- (1) The name, brand or trademark is misleading or deceptive or may tend to mislead or deceive as to the materials of which the product is composed;
- (2) The person already has a product registered under the same name; or
- (3) The copy of label does not show the information as required by the act and these regulations or fails to conform to any of the requirements of the act.

K.A.R. 4-3-12. Permit system. (a) The permit holder shall keep the records of sales available for inspection for a period of three years.

(b) The secretary may cancel the permit if:

- (1) The holder fails to report and pay the inspection fee within thirty days after due and payable;
- (2) Refuses to permit the secretary or his duly authorized representative to examine the records; or
- (3) Makes a false report of tonnage of feeding stuffs sold on which the inspection fee was due.

ADMINISTRATION

K.A.R. 4-3-13. Hearing. (a) The notice of hearing as specified in K.S.A. 2-1010, shall be in writing, and mailed first class to the record address of the manufacturer or dealer. The person so notified shall be given an opportunity to present his views in writing or by representative.

(b) Upon request reasonably made, by the person to whom a notice appointing a time and place for the hearing as provided by K.S.A. 2-1010, has been given, or by his representative, such time and place, or both such time and place, may be changed if the request states reasonable grounds therefor. Such request shall be received by the secretary, or his agent who issued the notice.

(c) No notice of hearing shall be required prior to the seizure of any commercial feeding stuffs.

GENERAL

K.A.R. 4-3-14. Artificial color. Artificial colors shall be considered an adulterant in a commercial feeding stuffs whereby its use would tend to enhance the natural color or conceal inferiority. Dyes certified for use under the federal food, drug and cosmetic act may be used to indicate the distribution of a valuable ingredient or ingredients, or to increase or aid in proper intake of a feeding stuffs.

K.A.R. 4-3-15. Name of unmixed by-product feeds containing screenings or scourings. Unmixed by-product feeds, to which either screenings or scourings or both have been added, shall be labeled to clearly indicate this fact in the name. The word "screenings" or "scourings" together with the kind of screenings or scourings shall appear as a part of the name and shall be printed in the same size and face of type as the remainder of the name.

DEFINITIONS FOR COMMERCIAL FEEDING STUFFS

K.A.R. 4-3-47. Adoption by reference. (a) The following portions of the "2010 official publication" copyrighted in 2010 by the association of American feed control officials incorporated are hereby adopted by reference and shall apply to commercial feeding stuffs in this state:

(1) Regulations 1 through 13 of the "AAFCO model good manufacturing practice regulations for feed and feed ingredients" on pages 128 through 132, with the following changes: (A)(i) In the first sentence of regulation 1, "section 3 of the model bill" shall be replaced with "K.S.A. 2-1001, and amendments thereto"; and

(ii) in the definition of "adulteration" in regulation 1, "section 7(a) of the model bill" shall be replaced with "K.S.A. 65-664, and amendments thereto"; and

(B) in the second sentence of regulation 11(b), the blank line following "agents of the" shall be replaced with "Kansas department of agriculture";

(2) the text titled "official feed terms" on pages 314 through 323; and

(3) the text titled "official names and definitions of feed ingredients as established by the association of American feed control officials" on pages 324 through 415.

(b) Copies of the material adopted by reference in this regulation may be obtained from the office of the agricultural commodity assurance program, Kansas department of agriculture, Topeka, Kansas. (Authorized by K.S.A. 2-1011 and K.S.A. 2009 Supp. 2-1013; implementing K.S.A. 2009 Supp. 2-1002 and K.S.A. 2009 Supp. 2-1013; effective May 1, 1981; amended May 1, 1982; amended May 1, 1984; amended May 1, 1988; amended Oct. 21, 1991; amended Dec. 12, 1994; amended June 15, 2001; amended Jan. 18, 2008; amended, T-4-1-5-11, Jan. 5, 2011; amended April 29, 2011.)

K.A.R. 4-3-48. (Authorized by K.S.A. 2-1013 as amended by L. 1987, Ch. 7, Sec. 1; implementing K.S.A. 2-1002 and 2-1013 as amended by L. 1987, Ch. 7, Sec. 1; effective May 1, 1981; amended May 1, 1982; amended May 1, 1984; amended May 1, 1988; revoked April 29, 2011.)

K.A.R. 4-3-49. Good manufacturing practices; adoption by reference. (a) Except for those portions excluded by this subsection, 21 CFR Parts 225 and 226, as revised on April 1, 2010, are hereby adopted by reference and shall apply to good manufacturing practices for the production of commercial feeding stuffs in Kansas:

(1) Subpart (c) of section 225.1 is not adopted by reference.

(2) In section 225.115(b)(2), the following language shall be deleted: " , under §510.301 of this chapter."

(3) Subpart (b) of section 226.1 is not adopted by reference.

(b) Copies of the regulations, or pertinent portions of the regulations, shall be available from the office of the agricultural commodity assurance program, Kansas department of agriculture, Topeka, Kansas. (Authorized by and implementing K.S.A. 2010 Supp. 2-1013; effective, T-88-46, Nov. 10, 1987; effective May 1, 1988; amended Oct. 21, 1991; amended Dec. 12, 1994; amended, T-4-2-13-01, Feb. 13, 2001; amended June 15, 2001; amended Jan. 18, 2008; amended Sept. 9, 2011.)

K.A.R. 4-3-50. Good manufacturing practices; definitions. The following terms as used in 21 C.F.R. Parts 225 and 226, which are adopted by reference in K.A.R. 4-3-49, shall have the following meanings: (a) The term "form," referred to either by number or by any other designation, shall mean a form supplied by the agricultural commodity assurance program, Kansas department of agriculture.

(b) The term "state feed control officials" shall mean the secretary of the Kansas department of agriculture or the secretary's authorized representative.

(c) The term "center for veterinary medicine" shall mean the agricultural commodity assurance program, Kansas department of agriculture unless the context requires otherwise.

(d) The term "type A medicated article" shall mean a feeding stuff or ingredient for a feeding stuff that is intended solely for use in the manufacture of either another type A medicated article or a type B or type C medicated feed.

(e) The term "type B medicated feed" shall mean a feeding stuff or an ingredient for a feeding stuff that contains a substantial quantity of nutrients including vitamins or minerals or other nutritional ingredients in an amount not less than 25% of the weight of the type A medicated article and that is intended solely for the manufacture of other medicated feeds, either type B or type C.

(f) The term "type C medicated feed" shall mean a feeding stuff or an ingredient for a feeding stuff that contains a substantial quantity of nutrients including vitamins, minerals, or other nutritional ingredients and that is intended as the complete feed for the animal. (Authorized by and implementing K.S.A. 2009 Supp. 2-1013; effective, T-88-46, Nov. 10, 1987; effective May 1, 1988; amended April 29, 2011.)

K.A.R. 4-3-51. Prohibited feeding stuffs; adoption by reference. (a) The following portions of 21 CFR Part 589, revised on April 1, 2010, with the changes specified in this subsection, are hereby adopted by reference and shall apply to the production of all commercial feeding stuffs and custom-mixed feed in Kansas:

(1) The second sentence of section 589.1000 shall be replaced with the following sentence: "Use of gentian violet in animal feed causes the feed to be adulterated under K.S.A. 65-664."

(2) The second sentence of section 589.1001 shall be replaced with the following sentence: "Use of propylene glycol in or on cat food causes the feed to be adulterated under K.S.A. 65-664."

(3) In section 589.2000(d)(5), "Food and Drug Administration" shall be replaced with "Kansas department of agriculture."

(4) In section 589.2000(f), "Food and Drug Administration" shall be replaced with "Kansas department of agriculture."

(5) In section 589.2000(g)(1), "section 402(a)(2)(C) or 402(a)(4) of the act" shall be replaced with "K.S.A. 65-664."

(6) In section 589.2000(g)(2), "section 403(a)(1) or 403(f) of the act" shall be replaced with "K.S.A. 65-665."

(7) In section 589.2000(h)(2), "Food and Drug Administration" shall be replaced with "Kansas department of agriculture."

(8) In section 589.2001(c)(2)(vi), "Food and Drug Administration" shall be replaced with "Kansas department of agriculture."

(9) In section 589.2001(c)(3)(i), "Food and Drug Administration" shall be replaced with "Kansas department of agriculture."

(10) In section 589.2001(d)(1), "section 402(a)(4) of the Federal Food, Drug, and Cosmetic Act (the act)" shall be replaced with "K.S.A. 65-664 and K.S.A. 2-1011."

(11) In section 589.2001(d)(2), "section 402(a)(2), 402(a)(3), or 402(a)(5) of the act" shall be replaced with "K.S.A. 65-664 and K.S.A. 2-1011."

(12) In section 589.2001(d)(3), "section 403(a)(1) or 403(f) of the act" shall be replaced with "K.S.A. 65-665 and K.S.A. 2-1011."

(13) In section 589.2001(d)(4), "section 402(a)(4) of the act" shall be replaced with "K.S.A. 65-664 and K.S.A. 2-1011."

(14) In section 589.2001(e), "Food and Drug Administration" shall be replaced with "Kansas department of agriculture."

(b) Copies of the regulations, or pertinent portions of the regulations, shall be available from the office of the agricultural commodity assurance program, Kansas department of agriculture, Topeka, Kansas. (Authorized by and implementing K.S.A. 2010 Supp. 2-1013; effective, T-4-2-13-01, Feb. 13, 2001; effective June 15, 2001; amended Jan. 18, 2008; amended Sept. 9, 2011.)