

330 CMR 13.00: PET FOOD

Section

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13.01: Definition

The definition of terms used in 330 CMR 13.00 shall be the same as those adopted by the Association of American Feed Control Officials ("AAFCO"), as amended, except as otherwise provided.

Immediate Container, the unit, can, box, tin, bag or other receptacle or covering in which a pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers.

Ingredient Statements, a collective and contiguous listing on the label of the ingredients of which the pet food is composed.

Principal Display Panel, 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.

13.02: Registration

No person shall distribute a commercial pet food, as commercial feed, in the Commonwealth unless the feed is registered with the Department.

13.03: Labeling

The label for any pet food distributed within commonwealth, must comply with the following:

- (1) The quantity statement and product name must be shown on the principal display panel. All other required information may be placed elsewhere on the label but shall be sufficiently conspicuous as to render it easily read by the average purchaser under ordinary conditions of purchase and sale.
- (2) The quantity statement shall be made in conformity with the United States "Fair Packaging and Labeling Act" and the regulations promulgated thereunder.
- (3) The information required to appear in the "Guaranteed Analysis" shall be listed in the following order:
 - (a) Crude protein (Minimum Percentage);
 - (b) Crude fat (Minimum Percentage);
 - (c) Crude fiber (Maximum Percentage);
 - (d) Moisture (Maximum Percentage); and
 - (e) Additional guarantees shall follow moisture.
- (4) The label shall specify the name and address of the manufacturer, packer, or distributor of the pet food. The statement of the place of business should include the street address, if any, of such place. If a person manufactures, packages, or distributes a pet food in a place other than his 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 was manufactured or packaged or is to be distributed, if such statement is not misleading in any particular.

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- (5) When a pet food is enclosed in any outer container or wrapper which is intended for retail sale, all required label information must appear on such outside container or wrapper.
- (6) The words "Dog Food", "Cat Food", or similar designations must appear conspicuously upon the principal display panels of the pet food labels.
- (7) The label of a dog or cat food shall bear, on either the principal display panel or information panel, in type of a size comparable to the largest type on the panel, a statement of the nutritional adequacy or purpose of the product. Such statement shall consist of one of the following:
- (a) A Claim that the pet food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation, lactation, growth, maintenance, and is complete for all life stages. The claim shall be stated as one of the following:
 1. (Name of Product) is Formulated to meet the nutritional levels established by the AAFCO Dog or Cat Nutrient Profiles for _____.
 2. Animal feeding tests using AAFCO procedures substantiate that (Name of Product) provides complete and balanced nutrition for _____.
 - (b) A nutrition or dietary claim for purposes other than those listed in 13.03 (7)(a) if the claim is scientifically substantiated.
 - (c) The statement: "this product is intended for intermittent or supplemental feeding only," if a product does not meet either the requirements of 330 CMR 13.03(10)(f) or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.
 - (d) The statement: "Use only as directed by your veterinarian", if it is a pet food product intended for use by, or under the supervision or direction of a veterinarian and shall make a statement in accordance with 330 CMR 13.03(7)(a) or (c).
- (8) Dog and cat foods labeled as complete and balanced for any or all life's stages as provided in 330 CMR 13.03(7)(a) except those pet foods labeled in accordance with 330 CMR 13.03(7)(d) shall list feeding directions on the product label. 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 unit) of dog (or cat)".
- (9) Unless the pet food product meets the requirements of 330 CMR 13.03(7)(c) and (d), any label of pet food product which is suitable only for intermittent or supplemental feeding or for some other limited purpose must bear a clear and conspicuous disclosure to that effect or contain specific feeding directions which clearly state that the product should be used only in conjunction with other foods.
- (10) No label shall contain any misleading statement and must comply with the following:
- (a) A vignette, graphic, or pictorial representation of a product on a pet food label shall not misrepresent the contents of that package.
 - (b) The use of the word "proven" in connection with label claims for a pet food is not allowed unless scientific or other empirical evidence establishing the claim represented as "proven" is available.
 - (c) No statement shall appear upon the label of a pet food which makes false or misleading comparisons between that pet food and any other pet food.
 - (d) Persons or commercial endorsements are permitted on pet food labels where said endorsements are factual and not otherwise misleading.
 - (e) The use of the word "complete" on pet food labels shall be restricted to those products that are nutritionally adequate and compounded by a specific formula to be fed as sole ration and capable of maintaining life and/or promoting normal reproduction in healthy pets without any additional substances being required except water.
 - (f) No unqualified representation or claim, directly or indirectly, shall be made that the pet food is or meets the requisites of a complete, perfect, scientific or balanced ration for dogs or cats unless the food:
 1. Contains ingredients in quantities sufficient to meet the nutrient requirements for all lifestages established by the AAFCO Dog or Cat Food Nutrient Profiles, or some other AAFCO-recognized authority on animal nutrition; or,

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2. Contains a combination of ingredients which when fed to a normal animal as the only source of nourishment in accordance with the testing procedures established by AAFCO, meets the criteria of such testing procedures for all life stages.
- (g) Products which are compounded for or which are suitable for only a limited purpose (*i.e.*, a product designed for the feeding of puppies) may contain representations that the pet food is or meets the requisites of a complete, perfect, scientific or balanced ration for dogs or cats only:
 1. In conjunction with a statement of a limited purpose for which the product is intended or suitable (for example, in the statement a complete food for puppies). Such representations and qualification shall be juxtaposed on the same panel and in the same size, style and color print; and
 2. Such qualified representations may appear on pet food labels only if the pet food contains ingredients in quantities sufficient to meet the nutrient requirements established by the AAFCO Dog and Cat Food Nutrient Profiles or some other AAFCO-recognized authority on animal nutrition, for such limited or qualified purpose; or contains a combination of ingredients which when fed for such limited purpose satisfies the nutrient requirements for such limited purpose and has had its capabilities in this regard demonstrated by adequate testing.
- (h) The name of any ingredient which appears on the label other than in the product name shall not be given undue emphasis so as to create the impression that such an ingredient is present in the product in a larger amount than is the fact, shall constitute at least 3% of the total ingredients (exclusive of water sufficient for processing) when preceded by the designation "with" or like term, shall be in the same size, style and color print and if the names of more than one such ingredient are shown, they shall appear in the order of their respective predominance by weight in the product.
- (i) The use of claims on pet food labels stating improvement or newness shall be sufficiently substantiated by the manufacturer and limited to six months of production. The use of claims stating reference or comparative attribute claims shall be sufficiently substantiated by the manufacturer and limited to one year production after which the claim must be removed or resubstantiated.

13.04: Brand and Product Names

- (1) No flavor designation shall be used on a pet food label unless the designated flavor is detectable by a recognized test method, or is one the presence of which provides a characteristic distinguishable by the pet. Any flavor designation on a pet food label must either conform to the name of its source as shown in the ingredient statement or the ingredient statement shall show the source of the flavor. The word flavor shall be printed in the same size type and with an equal degree of conspicuousness as the ingredient term(s) from which the flavor designation is derived. Distributors of pet food employing such flavor designation or claims on the labels of the product distributed by them shall, upon request, supply verification of the designated or claimed flavor to the Department.
- (2) The designation "100%" or "all" or words of similar connotation shall not be used in the brand or product name of a pet food if it contains more than one ingredient. However, for the purpose of 330 CMR 13.04(2), water sufficient for processing, required decharacterizing agents and trace amounts of preservatives and condiments shall not be considered ingredients.
- (3) The term "meat" and "meat by-products" shall be qualified to designate the animal from which the meat and meat by-products are derived unless the meat and meat by-products are from cattle, swine, sheep and goats. For example, "horsemeat" and "horsemeat by-products."
- (4) The name of the pet food shall not be derived from one or more ingredients of a mixture of a pet food product unless all components or ingredients are included in the name except as specified by 330 CMR 13.03(1), (5), or (6); Provided, that the name of an ingredient or combination of ingredients may be used as a part of the product name if:
 - (a) 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

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- (b) it does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients; or
- (c) it is not otherwise false or misleading.

(5) When an ingredient or a combination of ingredients derived from animals, poultry, or fish constitutes 95% or more of the total weight of all ingredients of a pet food mixture, the name or names of such ingredient(s) may form a part of the product name of the pet food; provided that where more than one ingredient is part of such product name, then all such ingredient names shall be in the same size, style and color print. For the purpose of this provisions, water sufficient for processing shall be excluded when calculating the percentage of the named ingredient(s). However, such named ingredient(s) shall constitute at least 70% of the total product.

(6) When an ingredient or a combination of ingredients constitute at least 25% but less than 95% of the total weight of all ingredients of a dog or cat food mixture, the name or names of such ingredient or ingredients may form a part of the name of the pet food if each of the ingredients constitute at least 3% of the product weight excluding water used for processing and only if the product name also includes a primary descriptive term such as "Dinner", "Platter", or similar designation so that the product name describes the contents of the product in accordance with an established law, custom or usage or so that the product name is not misleading. If the names of more than one such ingredient are shown, they shall appear in the order of their respective predominance by weight in the product. All such ingredient names and the primary descriptive term shall be in the same size, style and color print. For the purpose of this provision, water sufficient for processing shall be excluded when calculating the percentage of the named ingredient(s). However, such named ingredient(s) shall constitute at least 10% of the total product.

13.05: Expression of Guarantees

(1) The sliding scale method of expressing a guaranteed analysis (for example, "protein 15-18%") is prohibited.

(2) Pet foods which is formulated as and represented to be a mineral supplement, shall include in the guaranteed analysis the minimum and maximum percentages of calcium, phosphorus and the minimum and maximum percentage of salt. The minimum content of all other essential nutrient elements recognized by the AAFCO Dog or Cat Food Nutrient Profile or other AAFCO recognized nutrient profile from sources declared in the ingredient statement shall be expressed as the element in units specified in the recognized nutrient profile. Product labels may express the mineral guarantees in milligrams (mg) per unit (*e.g.*, tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use. Liquids expressed as volume must also list a weight equivalent (*e.g.*, 1 fl. oz. = 28 grams).

(3) Vitamins guaranteed on pet food labels shall be stated in International Units per kilogram (IU/kg) for vitamins A, D, and E. All other vitamins shall be stated in milligrams per kilogram (mg/kg) except vitamin B12 which may be guaranteed in micrograms per kilogram (ug/kg).

(4) The label of a pet food which is formulated as and represented to be a vitamin supplement shall include a guarantee of the minimum content of each vitamin declared in the ingredient statement. Vitamin guarantees shall be expressed as in 330 CMR 13.04(3). Products labeled as in 330 CMR 13.04(2) may express the vitamin guarantees in approved units consistent with those employed in the quantity statement and direction for use. Liquids may be expressed as in 330 CMR 13.04(2).

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(5) If the label of a pet food does not represent the pet food to be either a vitamin or a mineral supplement, but does include a table of comparison of a typical analysis of the vitamin, mineral or nutrient content of the pet food with levels recommended by AAFCO-recognized animal nutrition authority, such comparison may be stated in the units of measurement used in the AAFCO Dog or Cat Food Nutrient Profiles. The statement in a table of comparison of the vitamin, mineral, or nutrient content shall constitute a guarantee, but need not be repeated in the guaranteed analysis. Such table of comparison may appear on the label separate and apart from the guaranteed analysis.

(6) The use of percentages or words of similar import when referring to nutrient levels established by the AAFCO Dog or Cat Food Nutrient Profile or other recognized nutrient profile shall not be permitted on pet food labels, except that such direct comparisons in whole or part of the individual nutrient contents of a pet food with those recommended by the recognized nutrient profile may be made where the comparisons are expressed in the same quantitative units as those used by the cited nutrient profile and the product in question meets the nutrient profile recommended by the authority and the comparison is preceded by a statement to that effect.

13.06: Ingredients

(1) The maximum moisture in all pet foods shall be guaranteed and shall not exceed 78.00% or the natural moisture content of the constituent ingredients of the product, whichever is greater. Pet foods such as those consisting principally of stew, gravy, sauce, broth, juice or a milk replacer which are so labeled, may contain moisture in excess of 78.00%.

(2) Each ingredient of the pet food shall be listed in the ingredient statement, and names of all ingredients in the ingredient statement must be shown in letters or type of the same size. The failure to list the ingredients of a pet food in descending order by their predominance by weight in non-quantitative terms may be misleading. Any ingredient for which the Association of American Feed Control Officials has established a name and definition shall be identified by the name so established. Any ingredient for which no name and definition has been so established shall be identified by the common or usual name of the ingredient. Brand or trade names shall not be used in the ingredient statement.

(3) The term "dehydrated" may precede the name of any ingredient in the ingredient list that has been artificially dried.

(4) No reference to quality or grade of an ingredient shall appear in the ingredient statement of a pet food.

(5) A reference to the quality, nature, form, or other attribute of an ingredient shall not be made unless such designation is accurate and unless the ingredient imparts a distinctive characteristic to the pet food because it possesses that attribute.

13.07: Drugs and Pet Food Additives

(1) An artificial color may be used in a pet food only if it has been shown to be harmless to pets. The permanent or provisional listing of an artificial color in the United States Food and Drug Regulations as safe for use together with the conditions, limitations, and tolerances, if any, shall be deemed to be satisfactory evidence that the color is, when used pursuant to such regulations, harmless to pets.

(2) Prior to approval of a registration application and/or approval of a label for pet food, which contains additives, (including drugs, other special purpose additives, or non-nutritive additives) the distributor may be required to submit evidence to prove the safety and efficacy of the pet food, when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food may be:

(a) when the pet food contains such additives, the use of which conforms to the requirements of the applicable regulation in the CFR, Title 21, or which are "prior sanctioned" or "Generally Recognized as Safe" for such use.

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(b) When the pet food itself is a drug as defined in Title 21, U.S.C. 360(b) and is generally recognized as safe and effective for label use or is marketed subject to an application approved by the Food and Drug Administration under Title 21, U.S.C. 360(b).

(3) The medicated labeling format recommended by AAFCO shall be used to assure that adequate labeling is provided.

13.08: Statements of Calorie Content

(1) The label of a dog or cat food may bear a statement of calorie content, provided:

(a) That the statement shall be separate and distinct from the "Guaranteed Analysis" and shall appear under the heading "Calorie Content"; and

(b) that the statement shall be measured in terms of metabolizable energy (ME) on an as fed basis and must 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

(c) an affidavit shall accompany the request for label review or registration, substantiating that the calorie content was determined by:

1. calculation using the "Modified Atwater" Formula; or
2. in accordance with a testing procedure established by AAFCO.

(2) Comparative claims shall not be false, misleading or given undue emphasis and must be based on the same methodology for both products.

REGULATORY AUTHORITY

330 CMR 13.00: M.G.L. c. 128 , §§ 52 through 63.