

# PART III. TEXAS FEED AND FERTILIZER CONTROL SERVICE

<u>Chapter No.</u>	<u>Chapter Name</u>	<u>Section</u>
61.	FEED .....	61.1
63.	PET FOOD .....	63.1
65.	FERTILIZER .....	65.1

Authority: The provisions of this Part III issued under Acts 1957, 55th Leg., p. 35, ch. 23, effective August 22, 1957, as amended (Texas Civ. St. art. 3881e), unless otherwise noted.





## CHAPTER 61. FEED

### Section No.

### Section Name

#### GENERAL PROVISIONS

- 61.1. Definitions.  
61.2. Commercial Feed.

#### PERMITTING AND REGISTRATION

- 61.11. Application for Registration.

#### LABELING

- 61.21. General Label Restrictions.  
61.22. Labeling of Commercial Feed.  
61.23. Labeling of Customer-Formula Feed.

#### INSPECTION FEE

- 61.31. Assessment.

#### INSPECTION, SAMPLING, AND ANALYSIS

- 61.41. Sampling and Analytical Procedures.  
61.42. Analysis of Customer-Formula Feed.  
61.43. Cottonseed Screenings: Sampling, Analysis, and Labeling

#### PENALTIES

- 61.61. Poisonous or Deleterious Substances.



## GENERAL PROVISIONS

**§61.1. Definitions.**

Except where otherwise provided, the terms and definitions adopted by the Association of American Feed Control Officials in the last-published edition of the annual official publication are hereby adopted by reference as the terms and definitions to control in this title. The publication is available from the Association of American Feed Control Officials, Department of Agriculture, Room E-111, State Capitol Building, Charleston, West Virginia 25305. In addition, the following words and terms, when used in this title, shall have the following meanings, unless the context clearly indicates otherwise:

*Act*—Texas Commercial Feed Control Act, Texas Agriculture Code, Chapter 141, 1981, as amended.

*Container*—A bag, box, carton, bottle, object, barrel, package, apparatus, device, appliance, or other item of any capacity into which a feed is packed, poured, stored, or placed for handling, transporting, or distributing.

*Customer-formula feed*—A mixture of commercial feed or feed material, all or part of which is furnished by the person who processes, mixes, mills, or otherwise prepares the mixture and which is mixed according to the specific instructions of the purchaser. Customer-formula feed may be derived from a registered feed that has been altered by the deletion, addition, or substitution of one or more ingredients that may or may not affect the chemical analysis. The term includes special formula feed and made-to-order feed.

*Distribute*—Sell, offer for sale, expose for sale, barter, exchange, transfer possession or title, or otherwise supply.

*Ingredient*—A constituent material of a commercial feed.

*Label*—A display of written, printed, or graphic matter on or affixed to a container, invoice, or delivery slip.

*Person*—Any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character.

*Purchaser*—A person who buys or otherwise acquires a commercial feed, customer-formula feed, or custom-mill service.

*Registrant*—A person who registers a commercial feed under the Act.

*Salvage*—When applied to an ingredient or combination of ingredients, refers only to those products that have been damaged by natural causes, such as fire, water, hail, or windstorm, or by conveyance mishap.

*Service*—Texas Feed and Fertilizer Control Service.

*Weed seeds*—Those seeds declared prohibited or restricted noxious weed seeds by §19.3 of this title (relating to Noxious Weed Seeds).

**Source:** The provisions of this §61.1 adopted to be effective October 7, 1983, 8 TexReg 3806.

**Cross References:** This section cited in 4 TAC §61.22 (relating to Labeling of Commercial Feed).

**§61.2. Commercial Feed.**

- (a) All feed materials are considered commercial feeds, except:
  - (1) those exempted under §141.002(c) of the Act (relating to Commercial Feed); and
  - (2) salvage feed materials.
- (b) Commercial feeds may not contain:
  - (1) any adulterants as listed in §141.148 of the Act (relating to Distribution of Adulterated Feed); or
  - (2) salvage feed materials.

**Source:** The provisions of this §61.2 adopted to be effective October 7, 1983, 8 TexReg 3806.

## PERMITTING AND REGISTRATION

**§61.11. Application for Registration.**

- (a) Each brand and product name of a commercial feed must be registered before it may be distributed.
- (b) The labeling information required to accompany bagged or bulk commercial feed by §141.051 or §141.052 of the Act (relating to Labeling of Commercial Feed) shall be submitted with all applications for registration of medicated feeds, pet foods, and specialty products. Labeling information may be required for other products as a condition of registration upon request by the service.
- (c) The service may require the applicant to present evidence of authorization to use a registered trademark or other labeling reference as a condition for the registration of a product.
- (d) The applicant may be required to submit satisfactory evidence respecting the safety and efficacy of a commercial feed prior to the approval of a registration application and label for the feed if it contains additives (including drugs, other special purpose additives, or non-nutritive additives). Satisfactory evidence may include recognition by the United States Food and Drug Administration of the safety and efficacy of the feed or additive for its labeled use.

- (e) The net weight shall be provided as a condition for registration of specialty products packaged and marketed in containers weighing one pound or less whose net contents are declared on the label of the product in conformity with the United States Fair Packaging and Labeling Act, 15 U.S.C., §1415, *et seq.*, and regulations promulgated thereunder.

**Source:** The provisions of this §61.11 adopted to be effective October 7, 1983, 8 TexReg 3806.

**Cross References:** This section cited in 4 TAC §61.22 (relating to Labeling of Commercial Feed).

## LABELING

### §61.21. General Label Restrictions.

- (a) All labeling information required by §141.051 or §141.052 of the Act (relating to Labeling of Commercial Feed) or by this title shall appear in its entirety on one side of the label or one side of the feed container, except directions for use or precautionary statements, which shall appear on a different side of the label or container than its principal display panel, such principal display panel shall bear a reference to such information (*e.g.*, "See back for directions for use.").
- (b) No labeling information required by the Act or this title shall be obscured or subordinated by other statements or designs.
- (c) A trademark or trade name may form part of the labeling of a commercial feed provided that:
- (1) the trademark, in the opinion of the service, contributes significantly in conveying to the purchaser important information respecting a distinctive characteristic of the product; and
  - (2) the display of the trademark or trade name is not unduly conspicuous in relation to the display of the name of the registrant or guarantor of the product or other required information.
- (d) Negative labeling is prohibited except as required by a specific provision of the Act or this title.
- (e) When the label of a commercial feed declares the common name of a component or ingredient or a combination of components or ingredients and emphasis is placed on such ingredients or combinations thereof without reference to a percentage value, the service may require a showing of scientific data that the ingredient or combination of ingredients is present in sufficient quantities to impart a distinctive characteristic to the product. If reference is made to a percentage value for such ingredient or combination of ingredients, the service, in addition, may require:
- (1) that the percentage reference be determinable by accepted laboratory methods; and
  - (2) that the applicant provide, upon request, an analysis of the ingredient or combination of ingredients made by a private laboratory.
- (f) Specialty products packaged or marketed in containers weighing one pound or less may bear a declaration of the net contents of the container made in conformity with the United States Fair Packaging and Labeling Act, 15 U.S.C., §1415, *et seq.*, and regulations promulgated thereunder.

**Source:** The provisions of this §61.21 adopted to be effective October 7, 1983, 8 TexReg 3806.

### §61.22. Labeling of Commercial Feed.

Commercial feed shall be labeled with the information prescribed in the Act and this title on the principal display panel of the product with the following general format, unless otherwise specifically provided:

- (1) *Net weight.*
- (2) *Product name and brand name, if any.*
  - (A) The brand or product name must be appropriate for the intended use of the feed and must not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform therewith.
  - (B) The word "protein" shall not be permitted in the product name of a feed that contains nonprotein nitrogen.
  - (C) The word "vitamin," or a contraction thereof, or any word suggesting vitamin, shall be used only in the name of a feed which is represented to be a vitamin supplement and which is labeled with the minimum content of each vitamin declared, as specified in paragraph (4)(A)(vi) of this section.
  - (D) The term "mineralized" shall not be used in the name of a feed, except for when contained in the expression "trace mineralized salt." When this phrase is displayed on the label, the product must contain significant amounts of trace minerals which are recognized as essential for animal nutrition.
  - (E) The term "meat" or "meat by-products" shall be qualified on the label to designate the type of animal from which the meat or meat by-products are derived, unless the meat or meat by-products are from cattle, swine, sheep, and goats.
  - (F) When the product name or brand name of a feed carries a percentage value, it shall be understood to signify the protein and/or equivalent protein of the feed content only, even though such percentage value is not explicitly modified by the word "protein." Other percentage values are permitted in the product name or brand name of a feed if such percentages are followed by a proper description and conform with good labeling practices.

- (G) Digital numbers shall not be used in the product name or brand name of a feed in such a manner as to be misleading or confusing to a consumer.
- (H) Unless otherwise specified, single ingredient feeds shall have a product name which comports with the ingredient name assigned to such product by the Association of American Feed Control Officials in its *Official Publication*, adopted by reference in §61.1 of this title (relating to Definitions).
- (3) *Drug additives, if any.*
- (A) When drug additives are present in a commercial feed, the label shall include:
- (i) the word "medicated" directly following and below the product name in type size no smaller than one-half the size of the product name;
  - (ii) the purpose of the medication (claim statement);
  - (iii) any warning or cautionary statement relating to such drug additive required by paragraph (6) of this section, or reference to where such warning or cautionary statement may be found; and
  - (iv) an active drug ingredient statement listing:
    - (I) each drug ingredient by its common or usual name; and
    - (II) the amount of each ingredient stated in terms of percent by weight, except that:
      - (-a-) antibiotics present at less than 2,000 grams per ton (total) of commercial feed shall be stated in grams per ton (total) of commercial feed shall be stated in grams per ton of commercial feed;
      - (-b-) antibiotics present at more than 2,000 grams per ton (total) of commercial feed shall be stated in grams per pound of commercial feed;
      - (-c-) labels for commercial feeds containing growth promotion and 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 C.F.R., Title 21;
      - (-d-) the amount of a drug or antibiotic may be expressed in terms of milligrams per pound where the dosage given in the feeding directions is given in milligrams.
- (B) Drug additives may not be included on the label of a feed, except customer-formula feed, not registered with the service in accordance with §61.11 of this title (relating to Application for Registration).
- (4) *The guaranteed analysis of the feed.*
- (A) The guaranteed analysis of the feed shall include the following items in the following order, unless exempted in accordance with subparagraph (E) of this paragraph:
- (i) minimum percentage of crude protein;
  - (ii) percentage of equivalent protein from nonprotein nitrogen, guaranteed as follows:
    - (I) Complete feeds, supplements, and concentrates containing more than 0.5% protein from natural sources shall bear the following statement of guarantee: "Crude protein, minimum \_\_\_\_% (This includes not more than \_\_\_\_% equivalent protein from nonprotein nitrogen)."
    - (II) Mixed feed concentrates and supplements containing less than 5.0% protein from natural sources may bear the following statement of guarantee: "Equivalent crude protein from nonprotein nitrogen, minimum \_\_\_\_%."
    - (III) Ingredient sources of nonprotein nitrogen, such as urea, diammonium phosphate, ammonium polyphosphate solution, ammoniated rice hulls, or any other basic nonprotein nitrogen ingredient shall bear the following statement of guarantee: "Nitrogen, minimum \_\_\_\_%. Equivalent crude protein from nonprotein, minimum \_\_\_\_%."
    - (IV) Liquid feed supplements shall bear the following statement of guarantee: "Crude protein not less than \_\_\_\_% (This includes not more than \_\_\_\_% equivalent protein from nonprotein nitrogen)."
  - (iii) minimum percentage of crude fat;
  - (iv) maximum percentage of crude fiber;
  - (v) minerals;
    - (I) Commercial feeds containing 6.5% or more mineral elements shall include a guaranteed analysis of the following minerals in the following order:
      - (-a-) minimum and maximum percentage of calcium (Ca);
      - (-b-) minimum percentage of phosphorus (P);
      - (-c-) minimum and maximum percentages of salt (NaCl), if added; and
      - (-d-) such other minerals as may be required by subclause (IV) of this clause.
    - (II) Minerals, except salt, shall be guaranteed in terms of percentage of the element.
    - (III) When calcium and/or salt guarantees are given in the guaranteed analysis, such guarantees shall conform to the following.

- (-a-) When the minimum is 5.0% or less, the maximum shall not exceed the minimum by more than one percentage point.
      - (-b-) When the minimum is above 5.0%, the maximum shall not exceed the minimum by more than 20%, and in no case shall the maximum exceed the minimum by more than five percentage points.
    - (IV) Naturally occurring mineral phosphatic materials for feeding purposes shall be labeled with a guaranteed analysis of the minimum and maximum percentage of calcium (when present), the minimum percentage of phosphorus, and the maximum percentage of fluorine.
  - (vi) vitamins.
    - (I) Guarantees for minimum vitamin content of commercial feeds and feed supplements, when made, shall be stated on the label in milligrams per pound of feed except that:
      - (-a-) vitamin A, other than precursors of vitamin A, shall be stated in International or USP Units per pound;
      - (-b-) vitamin D, in products offered for poultry feeding, shall be stated in International Chick Units per pound;
      - (-c-) vitamin D, for other uses, shall be stated in terms of International or USP Units per pound,
      - (-d-) vitamin E shall be stated in International or USP Units per pound; and
      - (-e-) oils and premixes containing Vitamin A or Vitamin D may be labeled to show vitamin content in terms of units per gram.
    - (II) Guarantees for vitamin content on the label of a commercial feed shall state the guarantees as true vitamins, not compounds, with the exception of the following compounds:
      - (-a-) pyridoxine hydrochloride;
      - (-b-) choline chloride;
      - (-c-) thiamine; and
      - (-d-) d-pantothenic acid
  - (vii) total sugars as invert on dried molasses products or products being sold primarily for their molasses content.
  - (viii) maximum moisture content on liquid feed supplements and liquid ingredients expressed as a percentage.
- (B) The sliding scale method of expressing guarantees (e.g. "protein is 15-18%, etc.) is prohibited.
- (C) Unless otherwise provided by this section, guarantees for crude protein equivalent protein from nonprotein nitrogen, crude fat, crude fiber, and minerals will be in terms of percentage by weight.
- (D) Commercial, registered brand, or trade names are not permitted for use in a statement of guarantee, unless followed by a parenthetical statement giving the technical name of the ingredient.
- (E) Exemptions:
- (i) Guarantees for minerals are not required when the commercial feed contains less than 6.5% mineral element and no specific label claims are made for minerals.
  - (ii) Guarantees for vitamins are not required for commercial feed which is neither formulated nor in any manner represented as a vitamin supplement.
  - (iii) Guarantees for crude protein, crude fat, and crude fiber are not required for commercial feed not intended to furnish these substances, or for feed in which these substances are of minor significance to the primary purpose of the product (e.g., drug premixes, minerals or vitamin supplements, or molasses).
  - (iv) Liquid ingredients need not be guaranteed to show maximum moisture content when moisture is the difference between the guaranteed element and 100% or when, the moisture content of the ingredient is less than 20%.
- (5) *Feed ingredients.*
- (A) The feed ingredients statement for a commercial feed shall include the name of each ingredient in the feed or the collective term for each grouping of feed ingredients contained in the feed, unless exempted under subparagraph (K) of this paragraph.
  - (B) The name of each ingredient or grouping of ingredients listed shall be the:
    - (i) official term for the ingredient or grouping of ingredients adopted by the Association of American Feed Control Officials in its *Official Publication*, adopted by reference in §61.1 of this title (relating to Definitions);
    - (ii) the common or usual name for the ingredient; or
    - (iii) a name approved by the service.
  - (C) When a collective term for a group of ingredients is used on the label of a feed:



- (i) individual ingredients within that group shall not be listed on the label; and
  - (ii) the service may require the manufacturer to provide a listing of the individual ingredients within the group that are or have been used in the product as distributed in this state.
- (D) Tentative definitions for feed ingredients shall not be used until adopted as an official definition by the Association of American Feed Control Officials, unless no official definition exists or the ingredient has a commonly accepted name that requires no definition (*e.g.*, sugar).
- (E) No declaration of vitamin content shall appear in the ingredient statement or any other part of the label of a proprietary feed except in accordance with paragraph (4)(A)(vi) of this section.
- (F) The names of all ingredients must be in letters or type of the same size as that of the guaranteed analysis and must be of a size easily read by the average person under ordinary conditions.
- (G) *The sources of vitamins shall be stated in the ingredients statement.*
- (H) No reference to quality or grade or an ingredients statement.
- (I) The term "dehydrated" may precede the name of any product that has been artificially dried.
- (J) When the term "iodized" is used in connection with a feed ingredient, the ingredient shall contain not less than 0.007% iodine, uniformly distributed.
- (K) Exemptions.
- (i) Carrier ingredients in products used solely as drug and vitamin premixes need not be named in the ingredients statement if:
    - (I) any changes in the carrier will not affect the purposes of the product; and
    - (II) the carrier ingredient is recognized by the service as being safe.
  - (ii) Single ingredient feeds are not required to have an ingredient statement.
- (6) *Directions for use and cautionary statements.*
- (A) All feeds containing additives (including drugs, special purpose additives, or nonnutritive additives) shall have included on their label directions for use and cautionary statements which shall:
- (i) be adequate to enable safe and effective use of the product for its intended purposes by users with no special knowledge of the purposes and use of such articles; and
  - (ii) include, but not limited to, all information prescribed by the C.F.R., Title 21.
- (B) All feeds supplying particular dietary needs or for supplementing or fortifying the diet or ration with any vitamin, mineral, or other dietary nutrient or compound shall have included on their label adequate directions for use and any cautionary statement necessary for their safe and effective use.
- (C) Feeds containing urea or other nonprotein nitrogen products.
- (i) All feeds containing urea or other nonprotein nitrogen products shall have included on their label:
    - (I) the parenthetical statement: "(For Ruminants Only)" printed directly below the brand or product name for the feed; and
    - (II) if the equivalent protein from nonprotein nitrogen in the feed exceeds one-third of the total crude protein, or more than 8.75% of the equivalent protein is from nonprotein nitrogen, the statement "Warning (or "Caution"): Use as Directed" followed by adequate directions for the safe use of the feed.
  - (ii) All directions for use required by this subparagraph shall be printed in a size of type such as render it likely that the directions will be read and understood by ordinary persons under customary conditions of purchase and use.
  - (iii) This subparagraph shall apply to all invoiced, labeled customer-formula, and registered brand labeled feeds.
  - (iv) Feeds, such as medicated feeds, which are required to be labeled with adequate feeding directions and cautionary statements on their labels if such statements as are otherwise required are sufficient to ensure the safe and effective use of the product due to the presence of nonprotein nitrogen.
- (D) Flourine bearing phosphate materials shall have included on their label the statement: "Caution—Mix at the rate to not raise the fluorine content in a total ration (exclusive of roughage) above the following levels:
- |        |                                |
|--------|--------------------------------|
| 0.004% | for breeding and dairy cattle; |
| 0.009% | for slaughter cattle;          |
| 0.006% | for sheep;                     |
| 0.001% | for lambs;                     |
| 0.015% | for swine; and                 |
| 0.003% | for poultry."                  |

- (7) *Name and principal mailing address of the manufacturer or person responsible for distributing the feed.*

- (A) The principal mailing address shall include the street address, city, state, and zip code; provided, however, that the street address may be omitted if the address is listed in a current city directory or telephone directory.
- (B) The labeling may bear the name of the purchaser as well as the manufacturer, provided the product is for in-plant use and not for resale.
- (C) The labeling may bear the name of the distributor as well as the manufacturer, provided that the guarantor of the product is specifically stated.

**Source:** The provisions of this §61.22 adopted to be effective October 7, 1983, 8 TexReg 3806.

**Cross References:** This section cited in 4 TAC §61.23 (relating to Labeling of Customer-Formula Feed).

### §61.23. Labeling of Customer-Formula Feed.

- (a) If a customer-formula feed is identified by label under §141.053(a) of the Act (relating to Labeling of Customer-Formula Feed), the label, in addition to the requirements of that section, shall bear the following information:
  - (1) If the feed contains drug additives, the label shall include:
    - (A) the purpose of the medication;
    - (B) any directions for use or cautionary statements required by §61.22(6) of this title (relating to Labeling of Commercial Feed); and
    - (C) any active drug ingredient statement required by §61.22(3)(A)(iv) of this title (relating to Labeling of Commercial Feed).
  - (2) If the feed is derived from a registered feed that has been altered, the label shall include:
    - (A) the label of the registered feed from which the product was derived; and
    - (B) a listing of the deleted, added, or substituted ingredients and their guaranteed analysis.
- (b) If a customer-formula feed is identified by label under §141.053(b) of the Act (relating to Labeling of Customer-Formula Feed), the following shall apply:
  - (1) This alternate method of labeling customer-formula feed shall be accompanied by use of forms prescribed by the service and signed by both the seller and the purchaser.
  - (2) The original of the form shall, within five days of the transaction, be sent to the Texas Feed and Fertilizer Control Service, P.O. Box 3160, College Station, Texas 77841.
  - (3) The duplicate of the form shall give to the purchaser simultaneously with the invoice covering the first transaction involving the feed. Any invoices covering subsequent transactions involving the feed shall reference the form. A copy of the form shall be retained by the seller.

**Source:** The provisions of this §61.23 adopted to be effective October 7, 1983, 8 TexReg 3806.

## INSPECTION FEE

### §61.31. Assessment.

- (a) The inspection fee shall be calculated and reported on the basis of 2,000 pounds per ton.
- (b) Any change regarding inspection fees may be assessed preceding each quarter of the year.
- (c) When the inspection fee is reduced or increased, the manufacturer and other interested persons will be notified 30 days prior to the effective date of the change.
- (d) The flat rate inspection fee applies to those registered products packaged only in containers weighing five pounds or less. It does not apply to individual products distributed both in containers of five pounds or less and larger container sizes.

**Source:** The provisions of this §61.31 adopted to be effective October 7, 1983, 8 TexReg 3806.

## INSPECTION, SAMPLING, AND ANALYSIS

### §61.41. Sampling and Analytical Procedures.

**Source:** The provisions of this §61.41 adopted to be effective October 7, 1983, 8 TexReg 3806.

**Cross References:** This section cited in 4 TAC §61.43 (relating to Cottonseed Screenings: Sampling, Analysis, and Labeling).

**§61.42. Analysis of Customer-Formula Feed.**

To measure the quality of customer-formula feed, a chemical analysis will be performed based on computation using the average analysis of ingredients used. When a premix, supplement, or concentrate is used as one of the ingredients, the analysis on its label will be used for computation.

Source: The provisions of this §61.42 adopted to be effective October 7, 1983, 8 TexReg 3806.

**§61.43. Cottonseed Screenings: Sampling, Analysis, and Labeling**

- (a) Notwithstanding the provisions of §61.41 of this title (relating to Sampling and Analytical Procedures), when samples of cottonseed screenings are to be obtained, for purposes of uniformity such samples shall be taken from the shipping vehicle after loadout by probing vertically into the lot. The sample shall be obtained utilizing the Missouri D tube, a double tube open-sleeve trier, or the 552 grain probe, a double tube compartment trier. Other sampling devices may be used if previously approved by the Office of the Texas State Chemist, Feed and Fertilizer Control Service.

Specifications for the two triers are as follows:

Type	Length, in.	o.d., in.	i.d., in.	Compartments	
				No.	Size, in.
Missouri D <sup>1</sup>	52	1 ¼	1	1	45
552 Grain <sup>2</sup>	63	1 ¾	1 ½	11	3½

- (1) Available from Boyd Tool and Die Company, 917 Maple Street, West Des Moines, Iowa 50265.  
 (2) Available from Seedboro Equipment Co., 1022 West Jackson Boulevard, Chicago, Illinois 60607.
- (b) To obtain a proper sample with the Missouri D tube, the probe is inserted into the lot in the open position, closed, then withdrawn. The 552 compartmented trier, when employed, is inserted to the desired depth in the closed position, opened, filled, closed, and withdrawn.
- (c) Fifteen probes shall be acquired, following either of the random probe patterns shown in the following illustration.
- (d) The probes shall be composited to form the sample. The entire sample shall be ground to pass a sieve with a 1-millimeter diameter (1/25 inch) and mixed thoroughly prior to obtaining an aliquot for analysis. The sample shall be analyzed for the following components using the indicated methods, which were adopted in the *Official Methods of Analysis of the Association of Official Analytical Chemists*, 14th Edition (1984), or these methods as amended in subsequent editions of this reference; that is: Crude protein—Method 7.015 (Kjeldahl); Crude fat—Method 7.061; and Crude fiber—either Method 7.066 or 7.071; and no other.
- (e) Cottonseed screenings shall be sampled for analysis from time to time by the Feed and Fertilizer Control Service in such manner as to verify the compositional range of this by product. The compositional information shall be made available in the annual report on commercial feeds published by the Feed and Fertilizer Control Service.
- (f) At the time of introduction into commerce and thereafter, such by product shall be labeled "Cottonseed Screenings." The label shall affirmatively state that the product was obtained in the normal and regular course of commercial delinting and processing of cottonseed for planting purposes, and has been subsequently handled so as not to adversely affect its content. Required label guarantees relating to nutrient analysis of cottonseed screenings may conform with the compositional information generated by the Feed and Fertilizer Control Service, provided that the label shall be expressed in the format described under the Act, §141.051 (a).

Source: The provisions of this §61.43 adopted to be effective May 29, 1986, 11 TexReg 2310.

**PENALTIES****§61.61. Poisonous or Deleterious Substances.**

- (a) Poisonous or deleterious substances include, but are not limited to, the following:
- (1) fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds 0.20% for breeding and dairy cattle; 0.30% for slaughter cattle; 0.30% for sheep; 0.35% for lambs; 0.45% for swine; and 0.60% for poultry;
  - (2) fluorine-bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (exclusive of roughage) above the following amounts:

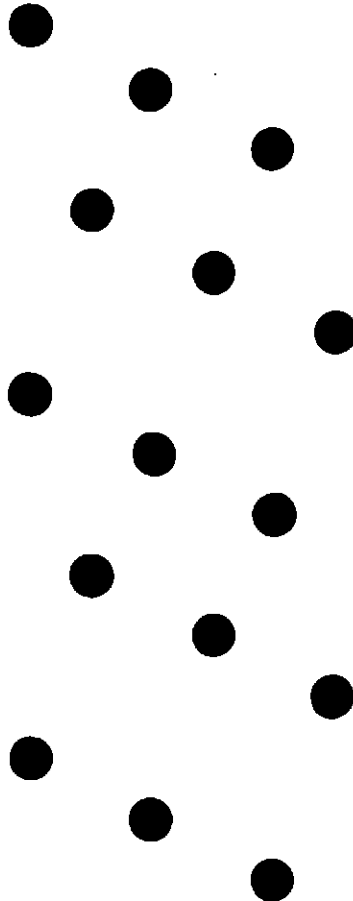
0.004%	for breeding and dairy cattle;
0.009%	for slaughter cattle;
0.006%	for sheep;
0.01 %	for lambs;
0.015%	for swine; and
0.03 %	for poultry.

- (3) soybean meal, flakes, or pellets or other vegetable meals, flakes, or pellets which have been extracted with trichlorethylene or other chlorinated solvents;
  - (4) sulfur dioxide, sulfurous acid, and salts of sulfurous acid when used in or on feeds or feed ingredients which are considered or reported to be a significant source of vitamin B<sub>1</sub> (thiamine); and
  - (5) artificial color that has not been cleared for safety for use in feeds. Evidence of safety must include a clearance for use of these color additives under the provisions of the Federal Food, Drug, and Cosmetic Act. No artificial color material shall be used to enhance the natural color of the feed or feed ingredient whereby inferiority would be concealed.
- (b) Urea and other nonprotein nitrogen products defined by the Association of American Feed Control Officials are acceptable ingredients in proprietary cattle, sheep, and goat feeds only, provided the parenthetical statement ("For ruminants only") is printed on the label directly below the brand or product name on all feeds. These materials shall be considered adulterants in proprietary feeds for other animals and birds.
- (c) All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed for sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of such weed seeds so that the finished product contains no viable prohibited noxious weed seeds and not more than 50 viable restricted weed seeds per pound, and not more than 100 of other weed seeds per pound.

Source: The provisions of this §61.61 adopted to be effective October 7, 1983, 8 TexReg 3806.

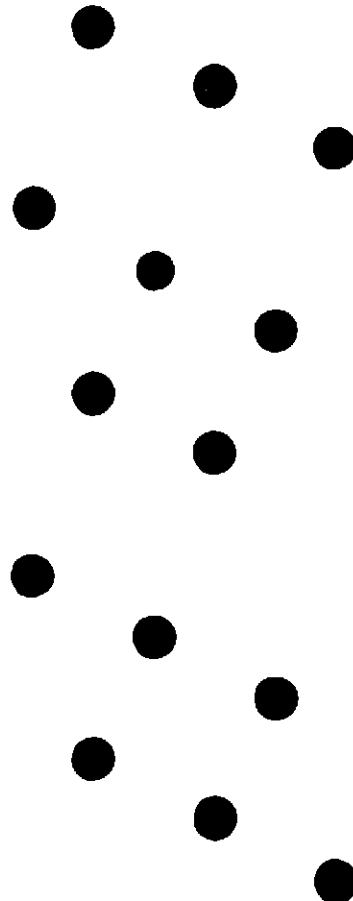
**PROBE  
PATTERN A**

(FRONT OF VEHICLE)



**PROBE  
PATTERN B**

(FRONT OF VEHICLE)



## CHAPTER 63. PET FOOD

### Section No.

63.1.  
63.2.  
63.3.  
63.4.  
63.5.  
63.6.  
63.7.

### Section Name

Definitions.  
Label Format and Labeling.  
Brand and Product Names.  
Expression of Guarantees.  
Ingredients.  
Directions For Use.  
Drugs and Pet Food Additives.



**§63.1. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

*Information panel*—Information panel as defined by 21 C.F.R. §501.1.

*National Research Council*—The National Research Council of the National Academy of Sciences.

*Principal display panel*—Principal display panel as defined by 21 C.F.R. §501.2.

*Service*—Texas Feed and Fertilizer Control Service.

Source: The provisions of this §63.1 adopted to be effective January 1, 1976.

**§63.2. Label Format and Labeling.**

- (a) The statement of net content 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.
- (b) The declaration of the net content shall be made in conformity with the United States Fair Packaging and Labeling Act, 15 U.S.C. §1451, *et seq.*, and the regulations promulgated thereunder.
- (c) The information which is required to appear in the "guaranteed analysis" shall be listed in the following order:
  - (1) crude protein (minimum amount);
  - (2) crude fat (minimum amount);
  - (3) crude fiber (maximum amount);
  - (4) moisture (maximum amount);
  - (5) additional guarantees shall follow moisture.
- (d) The label of a pet food 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 unless such street address is shown in a current city directory or telephone directory.
- (e) 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.
- (f) A vignette, graphic, or pictorial representation of a product on a pet food label shall not misrepresent the contents of the package.
- (g) The use of the word "proven" in connection with label claims for a pet food is improper unless scientific or other empirical evidence establishing the claim represented as "proven" is available.
- (h) 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.
- (i) Personal or commercial endorsements are permitted on pet food labels where said endorsements are factual and not otherwise misleading.
- (j) When a pet food is enclosed in an outer container or wrapper which is intended for retail sale, all required label information must appear on such outside wrapper or container unless all of the required label information is readily legible through apertures or transparencies in such outside container or wrapper.
- (k) The word "dog food," "cat food," or similar designations must appear conspicuously upon the principal display panels of the pet food labels.
- (l) The label of a pet food shall not contain an unqualified representation or claim, directly or indirectly, that the pet food therein contained or a recommended feeding thereof, is or meets the requisites of a complete, perfect, scientific or balanced ration for dogs or cats unless such product or feeding:
  - (1) contains ingredients in quantities sufficient to provide the estimated nutrient requirements for all stages of the life of a dog or cat, as the case may be, which have been established by a recognized authority on animal nutrition, such as the Committee on Animal Nutrition of the National Research Council, provided however, that to the extent that the product's ingredients provide nutrients in amounts which substantially deviate from those nutrient requirements estimated by such a recognized authority on animal nutrition, or in the event that no estimation has been made by a recognized authority on animal nutrition of the requirements of animals for one or more stages of said animals' lives, the product's represented capabilities in this regard must have been demonstrated by adequate testing; or
  - (2) contains a combination of ingredients which when fed to a normal animal as the only source of nourishment will provide satisfactorily for fertility of females, gestation and lactation, normal growth from weaning to maturity without supplementary feeding, and will maintain the normal weight of an adult animal whether working or at rest and has its capabilities in this regard demonstrated by adequate testing.
- (m) Labels for 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 said pet food product or recommended feeding thereof, is or meets the requisites of a complete, perfect, scientific, or balances ration for dogs or cats only:

- (1) in conjunction with a statement of the limited purpose for which the product is intended or suitable (as, for example, in the statement "a complete food for puppies"). Such representations and such required qualifications therefor 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:
  - (A) the pet food contains ingredients in quantities sufficient to satisfy the estimated nutrient requirements established by a recognized authority on animal nutrition, such as the Committee on Animal Nutrition of the National Research Council for such limited or qualified purpose; or
  - (B) the pet food product 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.
- (n) Except as specified by §63.3(a) of this title (relating to Brand and Product Names), 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, 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.
- (o) The label of a dog or cat food, other than one prominently identified as a snack or treat as part of the designation required upon the principal display panel under subsection (k) of this section, shall bear, on either the principal display panel or the information panel, in type of a size reasonably related 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:
  - (1) a claim that the pet food meets or exceeds the requirements of one or more of the recognized categories of nutritional adequacy: gestation, lactation, growth, maintenance, and complete for all life stages, as those categories are set forth in subsections (l) and (m) of this section;
  - (2) a nutrition or dietary claim for purposes other than those listed in subsections (l) and (m) of this section if the claim is scientifically substantiated;
  - (3) the statement: "Use only as directed by your veterinarian," if it is a dietary animal food product intended for use by, or under the supervision or direction of, a veterinarian;
  - (4) the statement: "This product is intended for intermittent or supplemental feeding only," if a product does not meet either the requirements of subsections (l) or (m) or any other special nutritional or dietary need and so is suitable only for limited, intermittent, or supplementary feeding.

Source: The provisions of this §63.2 adopted to be effective January 1, 1976.

### §63.3. Brand and Product Names.

- (a) 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 ingredients statement, or the ingredients 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 label of a product distributed by them shall, upon request, supply verification of the designated or claimed flavor to the service.
- (b) 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 this provision, water sufficient for processing, required decharacterizing agents and trace amounts of preservatives and condiments shall not be considered ingredients.
- (c) 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."
- (d) 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 subsections (a), (e), or (f) of this section; provided, that the name of an ingredient or combination of ingredients may be used as part of the product name if:
  - (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;
  - (2) it does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients; or
  - (3) it is not otherwise false or misleading.
- (e) 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 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 70% of the total product.



- (f) When an ingredient or a combination of ingredients derived from animals, poultry or fish constitutes at least 25% but less than 95% 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 only if the product name also includes a primary descriptive term such as "meatballs" or "fishcakes" 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. All such ingredient names and primary descriptive terms 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.
- (g) Contractions or coined names referring to ingredients shall not be used in the brand name of a pet food unless it is in compliance with subsections (a), (d), (e), or (f) of this section.

**Cross References:** This section cited in 4 TAC §63.2 (relating to Label Format and Labeling).

**Source:** The provisions of this §63.3 adopted to be effective January 1, 1976.

#### §63.4. Expression of Guarantees.

- (a) The sliding scale method of expressing a guaranteed analysis (for example, "protein 15-18%") is prohibited.
- (b) The label of a pet food which is formulated as and represented to be a mineral additive supplement shall include in the guaranteed analysis the minimum and maximum percentages of calcium, the minimum percentage of phosphorus, and the minimum and maximum percentages of salt. The minimum content of all other essential nutrient elements recognized by the National Research Council from sources declared in the ingredients statement shall be expressed as the element in units of measurement established by a recognized authority on animal nutrition such as the National Research Council.
- (c) The label of 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 ingredients statement. Such guarantees shall be stated in units of measurements established by a recognized authority on animal nutrition such as the National Research Council.
- (d) The vitamin potency of pet food products distributed in containers smaller than one pound may be guaranteed in approved units per ounce.
- (e) 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 a recognized animal nutrition authority, such comparison may be stated in the units of measurement used by the recognized authority on animal nutrition such as the National Research Council. 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.

**Source:** The provisions of this §63.4 adopted to be effective January 1, 1976.

#### §63.5. Ingredients.

- (a) The maximum moisture in all pet foods shall be guaranteed and shall not exceed 78% 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%.
- (b) 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 nonquantitative 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.
- (c) The term "dehydrated" may precede the name of any ingredient in the ingredient list that has been artificially dried.
- (d) No reference to quality or grade of an ingredient shall appear in the ingredient statement of a pet food.
- (e) 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.

**Source:** The provisions of this §63.5 adopted to be effective January 1, 1976.

#### §63.6. Directions For Use.

The label of a pet food product which is suitable only for intermittent or supplemental feeding or for some other limited purpose shall:

- (1) bear a clear and conspicuous disclosure to that effect; or

- (2) contain specific feeding directions which clearly state that the product should be used only in conjunction with other foods.

**Source:** The provisions of this §63.6 adopted to be effective January 1, 1976.

#### **§63.7. Drugs and Pet Food Additives.**

- (a) 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, incorporated therein, shall be deemed to be satisfactory evidence that the color is, when used pursuant to such regulations, harmless to pets.
- (b) Prior to approval of a registration application and approval of a label for pet food, which contains additives, (including drugs, other special purpose additives, or nonnutritive 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:
  - (1) when the pet food contains such additives, the use of which conforms to the requirements of the applicable regulation in the C.F.R., Title 21, or which are "prior sanctioned" or "generally recognized as safe" for such use; or
  - (2) when the pet food itself is a drug 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 21 U.S.C. §355 or 357.
- (c) The medicated labeling format recommended by Association of American Feed Control Officials shall be used to assure that adequate labeling is provided.

**Source:** The provisions of this §63.7 adopted to be effective January 1, 1976.

## CHAPTER 65. FERTILIZER

### Section No.

### Section Name

#### GENERAL PROVISIONS

- 65.1. Definitions.  
65.2. Commercial Fertilizer.

#### PERMITTING AND REGISTRATION

- 65.11. Application for Registration.

#### LABELING

- 65.21. Primary Plant Nutrients.  
65.22. Plant Nutrients in Addition to Nitrogen, Phosphorus, and Potassium.  
65.23. Name and Address of Manufacturer Required.  
65.24. Warnings or Cautionary Statements Required.  
65.26. Organic and Organic Base Nitrogen Fertilizer.  
65.27. Additives in Fertilizer.  
65.28. Trademarks, Trade Names, Common Names, Emphasis on a Particular Component.  
65.29. Specialty Fertilizers.

#### INSPECTION FEES

- 65.41. Assessment.  
65.42. Statistical and Tonnage Reporting and Inspection Fees.

#### INSPECTION, SAMPLING, AND ANALYSIS

- 65.51. Sampling and Analytical Procedures.

Authority: The provisions of this Chapter 65 issued under Acts 1961, 57th Leg., p. 54, ch. 37, effective September 1, 1961, as amended (Texas Civ. St. art. 108a), unless otherwise noted.



## GENERAL PROVISIONS

**§65.1. Definitions.**

Except where otherwise provided, the terms and definitions adopted by the Association of American Plant Food Control Officials in its last-published official publication are adopted by reference as the terms and definitions to control in this title. The publication is available from the Association of American Plant Food Control Officials, 203 Governor Street, Room 304, Richmond, Virginia 23219. In addition, the following words and terms, when used in this title, shall have the following meanings, unless the context clearly indicates otherwise.

*Act*—Texas Fertilizer Control Act, Texas Agriculture Code, Chapter 63, 1981, as amended.

*Container*—A bag, box, carton, bottle, object, barrel, package, apparatus, device, appliance, or other item of any capacity into which a commercial fertilizer is packed, poured, stored, or placed for handling, transporting, and distributing.

*Distribute*—Sell, offer for sale, expose for sale, barter, exchange, transfer possession or title, or otherwise supply.

*Label*—A display of written, printed, or graphic matter on or affixed to a container or on an invoice or delivery slip.

*Person*—Any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character.

*Registrant*—A person who registers a commercial fertilizer under the Act and this chapter.

*Salvage*—When applied to plant nutrients or additives, refers to only those products that have been damaged by natural causes, such as fire, water, hail, or windstorm, or by conveyance mishap.

*Service*—Texas Feed and Fertilizer Control Service.

*Specialty fertilizer*—Fertilizer distributed primarily for nonfarm use, including use on or in home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, or nurseries. The term does not include the excreta of an animal, plant remains, or a mixture of those substances, for which no claim of essential plant nutrients is made.

*Ton*—A net weight of 2,000 pounds avoirdupois or 1,000 kilograms metric.

Source: The provisions of this §65.1 adopted to be effective October 7, 1983, 8 TexReg 3813.

**§65.2. Commercial Fertilizer.**

All plant nutrients and additives, not salvage nutrients or additives, shall be satisfactory for use for or in a commercial fertilizer.

Source: The provisions of this §65.2 adopted to be effective October 7, 1983, 8 TexReg 3813.

## PERMITTING AND REGISTRATION

**§65.11. Application for Registration.**

- (a) Each brand name under which a commercial fertilizer will be marketed must be registered before the product is distributed.
- (b) All applications for registration of a specialty fertilizer or pesticide/fertilizer mixtures shall include the labeling information for the product required by §63.051 of the Act (relating to Labeling of Commercial Fertilizer).
- (c) The service may also require the labeling information for other products as a condition of registration.
- (d) The net weight shall be provided as a condition of registration for specialty products packaged and marketed in containers weighing one pound or less whose net contents are declared on the label in conformity with the United States Fair Packaging and Labeling Act, 15 U.S.C. §1415 *et seq.*, and regulations promulgated thereunder.

Source: The provisions of this §65.11 adopted to be effective October 7, 1983, 8 TexReg 3813.

## LABELING

**§65.21. Primary Plant Nutrients.**

Primary nutrients shall be guaranteed on the label of a commercial fertilizer in either of the following forms:

- (1) total nitrogen (N) \_\_\_\_\_%
- available phosphoric acid (P<sub>205</sub>) \_\_\_\_\_%
- soluble potash (K<sub>20</sub>) \_\_\_\_\_%
- or
- (2) total nitrogen (N) \_\_\_\_\_%
- \_\_\_\_\_ % ammoniacal nitrogen
- \_\_\_\_\_ % nitrate nitrogen

\_\_\_\_% water insoluble nitrogen  
 \_\_\_\_% (other recognized and determinable forms of N)  
 available phosphoric acid (P<sub>205</sub>) \_\_\_\_%  
 soluble potash \_\_\_\_%

Source: The provisions of this §65.21 adopted to be effective October 7, 1983, 8 TexReg 3813.

#### §65.22. Plant Nutrients in Addition to Nitrogen, Phosphorus, and Potassium.

- (a) Plant nutrients in addition to nitrogen, phosphorus, and potassium, when mentioned in any form or manner on the label of a fertilizer product, shall be guaranteed.
- (1) Guarantees shall be expressed on an elemental basis as a percentage by weight.
  - (2) Guarantees or claims for the additional plant nutrients listed in paragraph (4) of this subsection shall be the only guarantees acceptable to the service.
  - (3) Any guarantees or claims for the additional plant nutrients listed in paragraph (4) of this subsection shall appear in the order listed and shall immediately follow the guarantees for the primary nutrients of nitrogen, phosphorus, and potassium.
  - (4) Except for products distributed for foliar and hydroponic purposes, the minimum acceptable guaranteed percentage of plant nutrients, not primary plant nutrients, shall be as follows:

<i>Element</i>	<i>Percentage</i>
Calcium (Ca)	1.00
Magnesium (Mg)	0.50
Sulphur (S)	1.00
Boron (B)	0.02
Chlorine (Cl)	0.10
Cobalt (Co)	
Copper (Cu)	0.05
Iron (Fe)	0.10
Manganese (Mn)	0.05
Molybdenum (Mo)	0.0005
Sodium (Na)	0.10
Zinc (Zn)	0.05

- (b) The registrant of a fertilizer shall furnish to the service upon request:
- (1) the source of the elements guaranteed;
  - (2) proof of the availability and efficacy of the plant nutrients and other additives guaranteed or claimed on the label; and
  - (3) the proposed label and direction for use of the fertilizer.

Source: The provisions of this §65.22 adopted to be effective October 7, 1983, 8 TexReg 3813.

#### §65.23. Name and Address of Manufacturer Required.

- (a) The name and principal mailing address of the manufacturer or person responsible for distribution shall be required on the label of a commercial fertilizer.
- (b) The principal mailing address shall include the street address, city, state, and zip code; provided however, that the street address may be omitted if the address is listed in a current city directory or telephone directory.
- (c) The label may bear the name of the distributor as well as the manufacturer, provided that the guarantor of the project is specifically stated.

Source: The provisions of this §65.23 adopted to be effective October 7, 1983, 8 TexReg 3813.

#### §65.24. Warnings or Cautionary Statements Required.

A warning or cautionary statement is required on any fertilizer product containing:

- (1) 0.10% or more boron in water soluble form. The statement shall include:
  - (A) the word "Warning" or "Caution" conspicuously displayed;
  - (B) a statement of the crop(s) for which the fertilizer is recommended; and
  - (C) a statement that the use of the fertilizer on any crop(s) other than those recommended may result in serious injury to the crop(s).
- (2) 0.001% or more of molybdenum. The statement shall include:
  - (A) the word "Warning" or "Caution" conspicuously displayed; and

- (B) a statement that the application of fertilizers containing molybdenum may result in forage crops containing levels of molybdenum which are toxic to ruminant animals.

Source: The provisions of this §65.24 adopted to be effective October 7, 1983, 8 TexReg 3813.

#### §65.26. Organic and Organic Base Nitrogen Fertilizer.

- (a) The terms "organic" and "organic base," when used on the label of commercial fertilizer, shall refer only to substances:
- (1) generally recognized as the hydrogen compounds of carbon and their derivatives or synthetic products of similar composition;
  - (2) in which the water insoluble nitrogen content is at least 60% of the total nitrogen provided by the organic material; and
  - (3) the water insoluble nitrogen in the product is not less than 15% of the total nitrogen.
- (b) The terms "organic," "organic base," and "natural organic material" shall not be interpreted as including urea or cyanamids, but does include urea formaldehyde.

Source: The provisions of this §65.26 adopted to be effective October 7, 1983, 8 TexReg 3813.

#### §65.27. Additives in Fertilizer.

When a pesticide or any other additive, other than plant nutrients, is incorporated in a commercial fertilizer, the fertilizer mixture must be registered and guaranteed with respect to the kind and percentage of each of these additives as well as to claimed plant nutrient elements, all of which must be determinable by accepted laboratory methods. The labeling shall, in addition to other required information, state in a prominent manner the purpose for which the combined fertilizer and additive is recommended. It must be shown by scientific data that each additive is present in sufficient quantities to impart a distinctive characteristic to the product.

Source: The provisions of this §65.27 adopted to be effective October 7, 1983, 8 TexReg 3813.

#### §65.28. Trademarks, Trade Names, Common Names, Emphasis on a Particular Component.

The trademark, trade name, or common name of a component and/or emphasis on one or more components or ingredients may form part of the label of a commercial fertilizer provided that:

- (1) such trademark, trade name, common name, or emphasis on a particular component contributes significantly in conveying to the purchaser important information respecting a distinctive characteristic of the product;
- (2) the display of the trademark or trade name on the label of the product is not unduly conspicuous in relation to the display of the registrant or guarantor of the product and other required information;
- (3) the common name and percentage of the component is given, and the percentage is determinable by accepted laboratory methods; and
- (4) it can be shown by scientific data that the component is present in sufficient quantities to impart a distinctive characteristic to the product.

Source: The provisions of this §65.28 adopted to be effective October 7, 1983, 8 TexReg 3813.

#### §65.29. Specialty Fertilizers.

Specialty fertilizer products packaged or marketed in containers weighing one pound or less may bear a declaration of the net contents of the container made in conformity with the United States Fair Packaging and Labeling Act, 15 United States Code §1415, *et seq.*, and regulations promulgated thereunder.

Source: The provisions of this §65.29 adopted to be effective October 7, 1983, 8 TexReg 2990.

### INSPECTION FEES

#### §65.41. Assessment.

- (a) Any change regarding inspection fees may be assessed preceding any quarter of the year.
- (b) If the inspection fee is reduced or increased, the registrants and other affected persons will be notified 30 days prior to the effective date of the change.
- (c) The flat rate inspection fee, provided for in §63.071(c) of the Act (relating to Inspection Fee), shall apply to those registered products packaged only in containers of five pounds or less. It shall not apply to products distributed both in containers of five pounds or less and larger container sizes.

- (d) Tonnage inspection fees shall be assessed on the basis of the avoirdupois system of 2,000 pounds per ton.

Source: The provisions of this §65.41 adopted to be effective October 7, 1983, 8 TexReg 3813.

#### **§65.42. Statistical and Tonnage Reporting and Inspection Fees.**

- (a) The sales of commercial fertilizers designed for general purpose on-the-farm use shall be reported as follows:
- (1) The last person who distributes the fertilizer to a dealer or consumer who is not a registrant shall submit all quarterly tonnage reports and remit all tonnage inspection fees required by §63.072 of the Act (relating to Quarterly Tonnage Report and Inspection Fee).
  - (2) Such person shall further submit a quarterly statistical tonnage report which shall list the total fertilizer tonnage distributed in the state during the preceding quarter by county, grade, and type (e.g., bulk, liquid, or packaged). The quarterly statistical tonnage report shall be submitted on forms prescribed by the service or on forms containing commensurate information organized in a manner convenient and useful to the service.
- (b) The sales of commercial fertilizers designed for nongeneral, agricultural uses such as use in home gardens, on flowers, shrubs, potted plants, *etc.*, shall be reported as follows:
- (1) The person in whose name the fertilizer is registered shall submit all reports and pay all fees required by the Act and this chapter.
  - (2) The total fertilizer tonnage distributed in this state during the preceding quarter shall be reported without regard to county, grade, or type on forms prescribed by the service.
- (c) The reporting of tonnage is not required for products distributed solely in packages of five pounds or less on which a flat rate inspection fee has been paid.

Source: The provisions of this §65.42 adopted to be effective October 7, 1983, 8 TexReg 3813.

### **INSPECTION, SAMPLING, AND ANALYSIS**

#### **§65.51. Sampling and Analytical Procedures.**

The service hereby adopts by reference the official methods of analysis of the Association of Official Analytical Chemists as the sampling and analytical procedures to be applied in the administration of the Act and this title. The methods of analysis are available from the Association of Official Analytical Chemists, 111 North 19th Street, Arlington, Virginia 22209.

Source: The provisions of this §65.51 adopted to be effective October 7, 1983, 8 TexReg 2991.

**Cross References:** This section cited in 4 TAC §65.25 (relating to Degree of Fineness of Unacidulated Phosphatic Materials and Basic Slag).