

NOTICE OF PROPOSED RULE

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

DIVISION OF AGRICULTURAL ENVIRONMENTAL SERVICES

RULE CHAPTER:

RULE CHAPTER NO.:

Feed

5E-3

RULE TITLE:

RULE NO.:

Inspection; Sampling; Analysis;

5E-3.003

Reporting Rejecting Feed and Feedstuff;

Reduced Sampling Requirements;

Laboratory Certification/Exemption Requirements and Fees.

PURPOSE , EFFECT AND SUMMARY: The purpose of the proposed actions is to amend Rule 5E-3.003. The effect is to harmonize rule definitions to coincide with those listed in the Association of American Feed Control Officials (AAFCO) official publication and to categorize new products within the feed industry; to define an explicit sampling period; and to modify sampling requirements for feed ingredients and mixed feeds to correspond with revised definitions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No SEORC has been prepared. Any person who wishes to provide information regarding the SOERC or to provide a proposal for a lower cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 570.07(23), 580.036(2), 580.065 FS

LAW IMPLEMENTED: 580.036(2), 580.051, 580.065, 580.036(2), 580.071, 580.091,

580.121, and 580.131 F.S.

A RULE HEARING WILL BE HELD AT THE TIME, DATE

AND PLACE SHOWN BELOW:

TIME AND DATE: 3:00 p.m., July 10, 2006

PLACE: Flag Credit Union Conference Room, 3115 Conner Blvd., Tallahassee, Florida
32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:

Mr. Weldon E. Collier, Chief, Bureau of Feed, Seed, and Fertilizer Laboratories, Division
of Agricultural Environmental Services, FDACS, L-29, 3125 Conner Boulevard,
Tallahassee, Florida 32399-1650; telephone (850) 488-9095.

THE FULL TEXT OF THE PROPOSED RULE IS:

**5E-3.003 Inspection; Sampling; Analysis; Reporting Rejected Feed and Feedstuff;
Reduced Sampling Requirements; Laboratory Certification/Exemption
Requirements and Fees.**

(1) Definitions.

(a) and (b) no change.

(c) The term “product type” means mixed: poultry feed, dairy cow feed, beef cattle feed, horse feed, swine feed, or other feed.

(d) The term “Mixed Feed” means a product which is a mixture of nutritional ingredients intended or represented for use as a substantial source of nutrients in an animal diet, which may or may not be limited to the sole ration of the animal.

(e) The term “Ingredient” means each of the constituent materials used to make a commercial feed.

(f) The term “Other Feed” is inclusive of all other commercial feed products intended for consumption by species of animals not previously stipulated.

(g) The term “Grain or Grain Products” includes Barley, Maize – (Corn Products), Grain Sorghum, Oats, Rice, Rye, Triticale, and Wheat.

(h) The term “Other Feed Ingredients” is inclusive of all ingredients other than Cottonseed Products, Peanut Products, and ingredients identified as “Grain or Grain Products”

(i) The term “Treats” includes products identified as Snacks, Chews, Biscuits, Cookies, or Bones that are intended for intermittent or supplemental feeding only and which are not intended or represented to serve as the primary source of nutrients in an animal diet.

(j) The term “Mineral or Vitamin Supplement” means all mixtures that contain mineral or vitamin ingredients generally regarded as dietary factors essential for the normal nutrition of animals and that are sold or represented for the primary purpose of supplying these minerals or vitamins as additions to rations in which these same mineral or vitamin factors may be deficient.

(2) Inspection.

(a) and (b) no change.

(3) Sample and Analytical Documentation.

(a) , (b) and (c) no change.

(d) Positive ~~microbiological organism, pesticide residues,~~ drugs and mycotoxin results must be reported within 48 hours of completion of analyses to the department.

(4) Sampling Requirements, Frequency, and Analysis Requirements.

The sampling period shall run concurrently with the registration period. Samples of commercial feed and feedstuffs shall be submitted quarterly, to laboratories certified by the Department, corresponding to the tonnage reported to the Department. A minimum of one sample shall be submitted by the end of the first quarter of each year. The sampling period ends June 1st of each year. The sampling frequency and analysis requirements to be used by feed registrants ~~approved certified laboratories and approved quality assurance/quality control programs~~ are listed below. If the department finds that circumstances exist which threaten the health of commercial livestock or the public, the department shall require additional feed sample analyses.

(a) Ingredients.

1. Nutrients – No analyses required.

2. Mycotoxins.

a. Aflatoxins.

(I) Grain and Grain Products Maize ~~(Corn Products)~~ One sample per 5,000 tons distributed shall have a quantitative analysis performed;

(II) Cottonseed Products – One sample per 2500 tons shall have a quantitative analysis performed;

(III) Peanut Products – One sample per 500 tons shall have a quantitative analysis performed;

~~(IV) Other grains and grain products – One sample per 5000 tons shall have a quantitative analysis performed;~~

(IV) ~~(V)~~ There will be a minimum of one quantitative analysis performed per year per distributor on the above ingredient types;

(V) ~~(VI)~~ No aflatoxin analysis is required on ingredients not listed above.

b. Fumonisin.

(I) Maize – (Corn Products) – One sample per 5,000 tons distributed shall have a quantitative analysis performed; ~~Corn screenings – One sample per year per distributor shall have a quantitative analysis performed~~

(II) No fumonisin analysis is required on ingredients not listed above.

c. Vomitoxin.

(I) Grain and grain products (excluding Maize – Corn Products) – One sample per 25,000 tons shall have a quantitative analysis performed;

(II) There will be a minimum of one quantitative analysis performed per year per distributor for grain and grain products (excluding Maize – Corn Products);

(III) No vomitoxin analysis is required on ingredients not listed above.

~~3. Microorganisms—Animal products shall have one qualitative salmonella analysis performed per year. If the analysis is positive, the group and type shall be specified.~~

~~4. Pesticide Residues—All ingredient types (except minerals) shall have one pesticide screen (carbamates, chlorinated hydrocarbons and organophosphates) performed per year per distributor. All positive screens must be confirmed quantitatively.~~

~~3. 5. Drugs –~~

~~a. The FDA requirements as provided in 21 C.F.R. parts~~

~~225, 226 (4/1/01) shall be considered adequate for the purposes of this testing requirement.~~

~~b. 21 C.F.R. pts. 225, 226 (4/1/01) are hereby incorporated by reference. Copies may be obtained from the Superintendent of Documents, U.S. Government Printing Office, 732 N. Capitol Street, N. W., Mail Stop SDE, Washington, D.C. 20401. No analysis required.~~

(b) Mixed Feeds.

1. Nutrients.

a. Protein, fat and fiber analysis shall be performed at a frequency of one per every 750 cumulative tons for all types of feed distributed. If the distributors deficiency rate is 5% or less the sampling frequency shall be reduced to one per every 2000 tons; If the distributors deficiency rate is greater than 5% but less than 10%, the sampling frequency may be reduced to one per every 1000 tons;

b. If the distributors deficiency rate is 20% or greater the sampling frequency shall be increased to one for every 500 tons;

c. Mineral analyses shall be performed at a frequency of one per every 15,000 cumulative tons distributed per year with a minimum of one analysis per year.

d. Treats shall be exempt from nutrient sampling and analysis requirements.

2. Mycotoxins.

a. Aflatoxin analysis shall be performed on all types of mixed feed at a frequency of one for every 25,000 cumulative tons (excluding minerals or vitamin supplements and liquid feed) with a minimum of one per year per distributor. Aflatoxin analysis must be quantitative;

b. Fumonisin analysis shall be performed at a frequency of one per year per distributor for horse feed only;

c. Vomitoxin analysis shall be performed for all types of mixed feed (excluding minerals or vitamin supplements and liquid feed) at a frequency of one per every 50,000 cumulative tons with a minimum of one per year per distributor.

d. Treats shall be exempt from mycotoxin sampling and analysis requirements.

~~3. Microorganisms (salmonella) analysis shall be performed at a frequency of one per every 100,000 tons per type of feed per distributor with a minimum of one analysis per year per type per distributor. If the analysis is positive, the group and type shall be specified.~~

3. 4. Pesticide Residues – No analysis required.

4. 5. Drugs.

a. The FDA requirements as provided in 21 C.F.R. pts. 225, 226 (4/1/01) shall be considered adequate for the purposes of this testing requirement.

b. 21 C.F.R. pts. 225, 226 (4/1/01) are hereby incorporated by reference. Copies may be

obtained from the Superintendent of Documents, U.S. Government Printing Office, 732 N. Capitol Street, N. W., Mail Stop SDE, Washington, D.C. 20401.

(5) and (6) no change.

(7) (a), (b) and (c) no change.

(d) Commercial Laboratory Certification – Application, Evaluation and Renewal.

1. The Application/Renewal for Certification as a Certified Feed Laboratory (Form DACS-13401, Rev. 10/02 ~~6/04~~) which is hereby incorporated by reference, must be properly completed and submitted with the appropriate fees. Copies may be obtained from and submitted to the Florida Department of Agriculture, Bureau of Feed, Seed and Fertilizer Laboratories, 3125 Conner Boulevard, Building #7, Tallahassee, Florida 32399-1650, (850)488-9095. Separate applications must be submitted for each laboratory

location without regard to ownership. Applications must be accompanied by the laboratory's Quality Assurance/Quality Control manual, assay methods, results from check sample programs and participation number, detailed organizational chart showing name and position title for all key personnel, description of the laboratory and laboratory equipment as it applies to the department certification activities, and a description of the scope of the laboratory operations;

2. through 5. no change.

6. The department will renew certifications annually. Renewal must be submitted on Application/Renewal for Certification as a Certified Feed Laboratory (Form number DACS-13401, Rev. 10/02 ~~6/04~~) provided by the department.

(e) through (g) no change.

(8) (a) No change

(b) Application for exemption from the requirement for laboratory certification through submission of an approved quality assurance/quality control plan shall be made in writing to the department on the Request/Renewal For Exemption From Certified Feed Laboratory Testing (Form number DACS-13402, Rev. 10/02 ~~6/04~~). The Request/Renewal For Exemption From Certified Feed Laboratory Testing (Form number DACS-13402, Rev. 10/02 ~~6/04~~) is hereby incorporated by reference. Copies may be obtained from Florida Department of Agriculture and Consumer Services, Bureau of Feed, Seed and Fertilizer Laboratories, Building #7, 3125 Conner Boulevard, Tallahassee, FL 32399-1650, (850) 488-9095.

(c) Through (f) no change.

Specific Authority 570.07(23), 580.036(2), 580.065 F.S. Law Implemented 580.036(2), 580.051, 580.065, 580.071, 580.091, 580.121, 580.131 F.S. History-Amended 12-30-70, 5-14-85, Formally 5E-3.03, Amended 3-4-87, 6-1-95, 11-1-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Weldon Collier, Chief, Bureau of Feed, Seed, Fertilizer Laboratories, Department of Agriculture and Consumer Services, L-29, 3125 Conner Blvd., Tallahassee, Florida 32399-1650.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Anderson Rackley, Director, Department of Agriculture and Consumer Services, 3125 Conner Blvd., Tallahassee, Florida 32399-1650.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 24, 2006.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 5, 2006 (Volume 32, No.: 18).