



# Arizona Department of Agriculture

1688 W. Adams Street, Phoenix, Arizona 85007  
(602) 542-3578 FAX (602) 542-0466

Title 3, Chapter 15, Article 1  
ARS 3-2626 & 3-2609

## Information for Commercial Feed License Applicants

The following lists the requirements of the Arizona Commercial Feed Law and Rules pertaining to the distribution of commercial feed in the State of Arizona:

1. No person may manufacture or distribute commercial feed in this state without a commercial feed license from this Division, with the exceptions outlined under ARS 3-2609. The licensing period will be July 1<sup>st</sup> through June 30<sup>th</sup> of each year. The duration period may be either one or two years at the company's discretion. A license fee of ten dollars (\$10.00) is required yearly and must accompany the license application. Each application will be subject to review for proper completion. If all information is supplied, a license will be issued.
  - Registration of individual products is not required. The license allows distribution of any feed with your Company name on the label.
  - The Licensing Section Requests that a copy of each feed label that your Company intends to distribute within the trade channels of Arizona be sent with the application.
2. Quarterly Tonnage reports are required, together with a tonnage fee at the rate of twenty cents (\$0.20) per ton (or parts thereof rounded to the nearest whole ton) that was distributed during the quarter. A minimum fee of \$2.00 must be included. If you fail to file this report (even with no distribution), a minimum late fee penalty of either \$10.00 or 10% of the total amount due depending on which is the greater amount will occur.
3. These forms are pre-addressed and will be automatically sent to each licensee during the last month of the quarter. If a report form is not received on time it is still the responsibility of the licensee to submit a report.
4. Contact this Office at 602-542-3578 if the report form is not received by the end of the quarter or within the first week following the end of the quarter.

For all inquires, feel free to contact the agency at 602-542-3578

Gary Christian  
Licensing Program Manager  
602-542-0903

ARIZONA DEPARTMENT OF AGRICULTURE  
ENVIRONMENTAL SERVICES DIVISION  
1688 W. Adams, Phoenix, Arizona 85007  
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FOR ADA/ESD USE ONLY

License No.: \_\_\_\_\_  
Check #: \_\_\_\_\_  
Check Date: \_\_\_\_\_  
Check Amount: \$ \_\_\_\_\_  
Line #: \_\_\_\_\_

NEW - COMMERCIAL FEED  
LICENSE APPLICATION

Company Name: \_\_\_\_\_

Division: \_\_\_\_\_

Fed. Tax ID#: \_\_\_\_\_ E-mail: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Physical Address: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

If tonnage fees are not paid from Licensee's mailing address, please provide proper address below:

Division or c/o: \_\_\_\_\_

Tonnage Address: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

\* Application will not be processed without a tax ID number.

Under A.R.S. 3-2609, no person may manufacture or distribute commercial feed in this state without a commercial feed license from the division. A separate application is necessary for a commercial feed license for each manufacturing or distribution facility.

Return this form with the appropriate fee to the above address. Payment may be made by check to the Arizona Department of Agriculture-ESD. The Department is required by law to process completed applications within fourteen days from date received. Incomplete applications will be returned.

License Option \$10 per year:  1 year  2 years

Under AAC R3-3-902(A)(1) any person applying for a new commercial feed license to manufacture or distribute commercial feed must submit a copy of each commercial feed label intended for distribution within the state. A replicate of your proof sheet, either by hard copy or in electronic format may substitute. Do NOT submit the actual containers or packaging.

Applicant Name/Title: \_\_\_\_\_

The undersigned hereby makes application for a new commercial feed license, pursuant to A.R.S. 3-2609. By my signature below I agree to conduct business as a commercial feed licensee pursuant to Title 3, Arizona Revised Statutes and rules adopted pursuant thereto. The information contained in this application is true and accurate to the best of my knowledge. I understand that providing false information is a felony in Arizona.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# Arizona Revised Statutes

## CHAPTER 15 – ANIMAL AND BIRD FEEDS

### Article 1 – Commercial and Customer-Formula Feeds

#### 3-2601. Definitions

In this article, unless the context otherwise requires:

1. "Brand" means the term, design or trademark and other specific designation under which an individual commercial feed is distributed in this state.
2. "Commercial feed" means all materials, except whole seeds unmixed or physically altered entire unmixed seeds, that are distributed for use as feed or for mixing in feed. Commercial feed includes raw agricultural commodities distributed for use as feed or for mixing in feed when the commodities are adulterated within the meaning of section 3-2611.
3. "Customer-formula feed" means a mixture of commercial feed or feed materials, or both, each batch of which is mixed according to the specific instructions of the final purchaser.
4. "Distribute" means to offer for sale, sell, barter or otherwise supply commercial feeds or customer-formula feeds, except that the term "distribute" shall not include or apply to any feeds supplied for consumption on the premises of the supplier.
5. "Division" means the environmental services division of the Arizona department of agriculture.
6. "Feed ingredient" means each of the constituent materials making up a commercial feed.
7. "Label" means a display of written, printed or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed or customer-formula feed is distributed.
8. "Official sample" means any sample of feed taken by the director or the director's agent and designated as official.
9. "Per cent" or "percentage" means percentage by weight.
10. "Person" includes individual, partnership, corporation, firm, association or agent.
11. "Sell" or "sale" includes exchange.
12. "Ton" means a net weight of two thousand pounds avoirdupois.

#### 3-2602. Administration and enforcement

- A. In addition to other duties imposed by law, the associate director of the division shall administer and enforce the provisions of this article under the supervision of the director.
- B. The salaries and expenses of travel and subsistence for employees who administer and enforce this article shall be paid from the commercial feed fund.

#### 3-2603. Enforcement and administrative powers

- A. The associate director may refuse to license or may cancel the license of any distributor in violation of the provisions of this article. The director shall review the associate director's action on request of any person adversely affected by the action.
- B. The director may, after a hearing:
  1. Adopt rules:
    - (a) Requiring the guarantee of substances and elements when claimed present in a commercial feed, and declare the form in which the guarantee shall appear upon the label.
    - (b) Setting forth acceptable descriptive terms by which ingredients shall be listed on the labeling when used as ingredients of a commercial feed or customer-formula feed.
    - (c) Requiring a statement of warning and directions for use of commercial feeds and customer-formula feeds containing drugs or chemicals.
    - (d) Establishing limits of viable weed seeds contained in commercial feed.
    - (e) Both administrative and technical, which the director deems necessary for the efficient administration of this article.

2. Cooperate with, and enter into agreements with, other agencies of the state, other states and agencies of the federal government in order to carry out the purpose and provisions of this article.
3. Exempt from the definition of commercial feed or from specific provisions of this chapter commodities such as hay, straw, stover, silage, cobs, husks, hulls and individual chemical compounds or substances when such commodities, compounds or substances are not intermixed or mixed with other materials and are not adulterated within the meaning of section 3-2611.
4. Define weights in the metric system.

#### 3-2604. Publications; membership in professional organizations

- A. The department may publish at such times and in such form as the director deems proper:
  1. Information concerning the sale of commercial feeds and customer-formula feeds together with such data on their production and use as he may consider advisable, but the information concerning production and use of commercial feeds and customer-formula feeds shall not disclose the operations of any one person.
  2. Reports of chemists' findings based on official samples of each brand of commercial feed and customer-formula feed sampled and analyzed as compared to the guaranteed chemical analysis for each such feed.
- B. The director may authorize employees of the department to:
  1. Join and subscribe to any state, district, regional or national organization or publications relating to sale and distribution of or control of sale and distribution of commercial feeds.
  2. Attend state, district, regional and national meetings relating to sale and distribution or control of sale and distribution of commercial feeds.
- C. Expenses authorized by this section shall be paid from and limited by the commercial feed fund.

#### 3-2605. Inspection; official samples; analysis; report

- A. The director, who may act through an authorized agent, shall sample, inspect, analyze and test commercial feeds and customer-formula feeds distributed within the state at such time and place and to such an extent as the director deems necessary to determine whether or not such feeds are in compliance with the provisions of this article. The director, individually or through an agent, may enter upon any public or private premises during regular business hours in order to have access to feeds, facilities, vehicles and records subject to the provisions of this article and the rules adopted by the director. If the owner of any factory, warehouse or establishment, or an agent, refuses to admit the director or an agent to inspect in accordance with this subsection, the director may obtain from any state court a warrant directing such owner or an agent to submit the premises described in such warrant to inspection.
- B. The methods of sampling and analyzing shall be those adopted by the director.
- C. The director, in determining for administrative purposes whether or not a commercial feed or customer-formula feed is deficient in any component, shall be guided solely by the official sample as defined in section 3-2601 and obtained and analyzed as provided in subsection B of this section.
- D. When the inspection and analysis of an official sample indicate a commercial feed or customer-formula feed has been adulterated or misbranded, the results of the analysis shall be forwarded immediately by the department to the distributor and the purchaser. Upon receipt of a request within thirty days after transmitting the results of the analysis, the department shall furnish to the registrant a portion of the sample concerned.

#### 3-2606. Inspection fees; quarterly statement by distributor; retention of records

- A. An inspection fee at the rate of fifteen cents per ton shall be paid to the department on commercial feeds distributed in this state by any person licensed pursuant to section 3-2609 subject to the following:
  1. If more than one distributor is involved in the chain of distribution the one who sells directly to the ultimate consumer or to a distributor exempted from a license is responsible for submitting the tonnage report and payment of inspection fees.
  2. Distributors exempt from a license are not responsible for the filing of tonnage reports or the payment of the inspection fees for products purchased from a licensee and sold in the form in which received.

3. No inspection fees are required for commercial feeds sold or exchanged between licensed manufacturers for further manufacturing or processing, or for commercial feeds on which the inspection fee has been paid by a previous manufacturer or distributor in the chain of distribution.

4. The minimum inspection fee is two dollars for each calendar quarter.

B. The director may, after a hearing, decrease or increase the inspection fee provided in this section, except that the rate shall not exceed thirty cents per ton.

C. Each person who is liable for the payment of such fee shall:

1. File, not later than the last day of January, April, July and October of each year, a quarterly statement, setting forth the number of net tons of commercial feeds distributed in this state during the preceding calendar quarter. Upon filing the statement such person shall pay the inspection fee at the rate stated in subsection A of this section. Inspection fees which are due and owing and have not been remitted to the department within thirty days following the date due shall have a penalty fee of ten per cent or ten dollars, whichever is larger, added to the amount due when payment is finally made. The assessment of this penalty fee shall not prevent the director from taking other actions as provided in this article.

2. Keep such records as may be necessary or required by the director to indicate accurately the tonnage of commercial feed distributed in this state. The director may examine such records to verify statements of tonnage. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided in this section shall constitute cause for cancellation of any or all commercial feed licenses on file for the distributor.

### 3-2607. Commercial feed fund

A. The commercial feed fund is established. All monies collected under the provisions of this article shall be deposited, pursuant to sections 35-146 and 35-147, in the fund.

B. The director shall administer the fund. On notice from the director, the state treasurer shall invest and divest monies in the fund as provided by section 35-313 and monies earned from investment shall be credited to the fund.

C. The fund shall be used solely for the purpose of administering the provisions of this article upon the order of the director.

D. The commercial feed fund is exempt from the provisions of section 35-190 relating to lapsing appropriations.

### 3-2608. Restrictions upon enforcing officers

No person charged with the enforcement of any of the provisions of this article shall be directly or indirectly interested in the sale, manufacture or distribution of any commercial feed.

### 3-2609. Licensing

A. No person may manufacture or distribute commercial feed in this state without a commercial feed license from the division, except that no license is required of persons distributing only:

1. Commercial feeds to licensed manufacturers for further manufacturing.

2. Packaged commercial feed in the original packages or containers of a licensee as packaged and labeled by the licensee.

3. Bulk commercial feed in the form received from a licensee and labeled as required with label information furnished by the licensee, except for net weight statement.

B. Applications for a license shall be made on forms prescribed by the department listing each business location used in the manufacture or distribution of commercial feed in this state and such other information the department requires. Applications shall be accompanied by a fee of ten dollars per year for each separate place of business used in the manufacture of commercial feed in this state. Applications of manufacturers or distributors having no established place of business in this state, but otherwise subject to a license under this section, shall be accompanied by a fee of ten dollars per year. All licenses issued through 1998 expire on the last day of February of the following year. Beginning in 1999, the director may provide by rule for licenses having a term of one or more years and may prescribe the date on which licenses expire. Licenses are not

transferable and no credit or refund may be granted for licenses held for less than a full license term. No new business locations may be put into operation during the term of the license without the payment of an additional fee of ten dollars for each new location.

### 3-2610. Labeling

A. A commercial feed, except a customer-formula feed, shall be accompanied by a label bearing the following information:

1. The net weight.
2. The product name and the brand name, if any, under which the commercial feed is distributed.
3. The guaranteed analysis, stated in such terms as the director by rule determines, is required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by the association of official analytical chemists.
4. The common or usual name of each ingredient used in the manufacture of the commercial feed. The director by rule may permit the use of a collective term for a group of ingredients which perform a similar function or may exempt such commercial feeds, or any group of such feeds from this requirement of an ingredient statement if the director finds that such statement is not required in the interest of consumers.
5. The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed.
6. Adequate directions for use or precautionary statements for all commercial feeds containing drugs and for such other feeds as the director may require by rule as necessary for their safe and effective use.

B. A customer-formula feed shall be accompanied by a label, delivery slip or other shipping document bearing the following information:

1. Name and address of the manufacturer.
2. Name and address of the purchaser.
3. Date of delivery.
4. The product name and brand name, if any, and the net weight of shipment.
5. Adequate directions for use or precautionary statements for all customer-formula feeds containing drugs and for such other feeds as the director may require by rule as necessary for their safe and effective use.

### 3-2611. Adulteration

A. A person shall not distribute adulterated commercial feed.

B. A commercial feed is deemed to be adulterated if any of the following exists:

1. It bears or contains any poisonous or deleterious substance which may render it injurious to health, but in case the substance is not an added substance, such commercial feed shall not be considered adulterated under this section if the quantity of such substance in such commercial feed does not ordinarily render it injurious to health.
2. It bears or contains any added poisonous, added deleterious or added nonnutritive substance which is unsafe within the meaning of section 406 of the federal food, drug and cosmetic act, other than one which is a pesticide chemical in or on a raw agricultural commodity or a feed additive.
3. It is, bears or contains any food additive which is unsafe within the meaning of section 409 of the federal food, drug and cosmetic act.
4. It is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 408(a) of the federal food, drug and cosmetic act. If a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under section 408 of the federal food, drug and cosmetic act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating or milling, the residue of such pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide

residue in the edible product of the animal, which is unsafe within the meaning of section 408(a) of the federal food, drug and cosmetic act.

5. It bears or contains any color additive which is unsafe within the meaning of section 706 of the federal food, drug and cosmetic act.

6. Any valuable constituent has been in whole or in part omitted or abstracted or any less valuable substance substituted.

7. Its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.

8. It contains a drug and the methods used in or the facilities or controls used for its manufacture, processing or packaging do not conform to current good manufacturing practice rules adopted by the director to assure that the drug meets the requirement of this article as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In adopting such rules the director shall adopt the current good manufacturing practice regulations for medicated feed premixes and for medicated feeds established under authority of the federal food, drug and cosmetic act, unless the director determines that they are not appropriate to the conditions which exist in this state.

9. It contains viable weed seeds in amounts exceeding the limits established by the director.

### 3-2611.01. Maximum acceptable levels of aflatoxin; ammoniation of cottonseed and cottonseed products to reduce aflatoxin content

A. Commercial feed and whole cottonseed that contain three hundred parts per billion of aflatoxin or less are not considered to be adulterated for purposes of feeding animals other than animals whose milk is intended for human consumption.

B. Commercial feed and whole cottonseed that contain twenty parts per billion of aflatoxin or less are not considered to be adulterated for purposes of feeding animals whose milk is intended for human consumption.

C. Whole cottonseed and cottonseed products containing aflatoxin may be ammoniated under processes approved by the director to reduce the aflatoxin content to maximum acceptable levels as determined by the director. Whole cottonseed and cottonseed products that are intended for ammoniation, that are being ammoniated or that are actually ammoniated to acceptable levels according to the results of an analysis filed with the director are not considered to be adulterated under state law. The ammoniated cottonseed and cottonseed products may be used as animal feeds, including feed for animals whose milk is intended for human consumption.

D. Ammoniation may take place at the same location where the cottonseed or cottonseed product is to be fed.

E. After the ammoniation process is completed and before any sale, transfer, distribution, mixing, processing or feeding of the ammoniated cottonseed or cottonseed product, an analysis shall be performed on a sample, drawn according to sampling methods approved by the director, by a laboratory certified by the state agricultural laboratory to determine whether the ammoniation has reduced the aflatoxin content to acceptable levels. If the written results of the analysis indicate that the aflatoxin content has been reduced to acceptable levels for those animals to which it is intended to be fed and the labeling so indicates, the ammoniated cottonseed or cottonseed product may then be used as animal feed. The laboratory performing the analysis and the person ordering the analysis shall retain the written results of the analysis for at least three years. The person ordering the analysis shall:

1. File a copy of the analysis with the director.

2. Provide a copy of the analysis to any purchaser or transferee, if the ammoniated whole cottonseed or the ammoniated cottonseed product is sold, transferred or distributed after the analysis.

F. The director shall adopt rules permitting ammoniation and to otherwise carry out the purposes of this section.

### 3-2612. Adulteration; penalties payable to customer; hearing; definitions

A. With respect to the level of aflatoxin present, if the examination of labeling or the analysis of an official sample of any whole cottonseed, commercial feed or customer-formula feed shows mislabeling pursuant to

section 3-2610 as determined by the director or adulteration pursuant to section 3-2611 as determined by the director, the following provisions shall apply:

1. The customer is entitled to a refund from the seller of the purchase price of the lot upon return of any delivered and unused portion of that lot. The customer may cancel the order for undelivered whole cottonseed, commercial feed or customer-formula feed without penalty or damages.
2. A penalty in an amount equal to twice the selling price of the whole cottonseed, commercial feed or customer-formula feed shall be assessed, whether or not payment for that lot has actually been made.
  - B. All penalties assessed under this section shall be paid by the seller to the customer of the whole cottonseed, commercial feed or customer-formula feed within thirty days of the date of notice from the director to the seller by certified return receipt mail. The seller or the seller's representative shall obtain a receipt from the customer and promptly forward a copy to the director. If the customer cannot be found, the amount of the penalty shall be paid to the department for deposit, pursuant to sections 35-146 and 35-147, in the state general fund.
  - C. The director shall designate as an official sample a sample taken by a customer or the customer's representative if the director is satisfied that the sample has been taken in accordance with the method of sampling established pursuant to section 3-2605, subsection B.
  - D. Any person who is adversely affected by a decision of the director under this section may request a hearing pursuant to title 41, chapter 6, article 10.
  - E. For purposes of this section:
    1. "Analysis" means analysis performed in accordance with the methods of testing established pursuant to section 3-2605, subsection B.
    2. "Customer" means the ultimate purchaser, whether or not payment has actually been made if some or all of the whole cottonseed, commercial feed or customer-formula feed has been delivered to the purchaser or the purchaser's representative.

### 3-2613. Misbranding

No person shall distribute misbranded feed. A commercial feed or customer-formula feed shall be deemed misbranded:

1. If its labeling is false or misleading in any particular.
2. If it is distributed under the name of another feed.
3. If it is not labeled as required in section 3-2610 and in rules prescribed under this article.
4. If it purports to be or is represented as a feed ingredient, or if it purports to contain or is represented as containing a feed ingredient, unless such feed ingredient conforms to the definition of its identity, if any, prescribed by rule of the director. The director in adopting such rules shall give due regard to commonly accepted definitions such as those issued by the association of American feed control officials.
5. If any word, statement or other information required, by or under authority of this article, to appear on the label or labeling is not prominently placed thereon with such conspicuousness as compared with other words, statements, designs or devices in the labeling, and in such terms as to cause it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

### 3-2614. Cease and desist orders

If the director or an authorized agent has reasonable cause to believe a commercial feed or customer-formula feed is being distributed in violation of any of the provisions of this article or any of the rules adopted under this article, the director may issue and enforce a written or printed cease and desist order warning the distributor not to dispose of the feed in any manner until permission is given by the director or a court of competent jurisdiction. The director shall release the commercial feed or customer-formula feed subject to the order when the provisions and rules have been complied with and all costs and expenses incurred in the order have been paid. If compliance is not obtained within thirty days, the director may begin proceedings for condemnation.

### 3-2615. Seizure, condemnation and sale of noncomplying feed

Any lot of commercial feed or customer-formula feed not in compliance with the provisions of this article shall be subject to seizure upon complaint of the director to a court of competent jurisdiction in the area in which the feed is located. If the court finds the commercial feed or customer-formula feed is in violation of this article and orders the condemnation of the feed, it shall be disposed of in any manner consistent with the quality of the feed and the laws of the state, but the court shall not order the disposition of the feed without first giving the claimant an opportunity to apply to the court for release of the feed or for permission to process or relabel the feed to comply with the requirements of this article.

### 3-2616. Violations; notice; criminal classification; injunctive relief; exceptions

A. If it appears from the examination of any whole cottonseed, commercial feed or customer-formula feed that any of the provisions of this article or the rules adopted under this article have been violated, the director shall pursue one or more of the following courses of enforcement:

1. The director may cause notice of the violation to be given to the licensee or person responsible for placing the feed on sale. Any person so notified shall be given opportunity to be heard under such rules as are prescribed by the director. If the director finds after such hearing, either in the presence or absence of the person so notified, that any of the provisions of this article or rules adopted under this article have been violated, the director may certify the facts to the county attorney.
2. The director may request the county attorney to initiate criminal prosecution. Each county attorney to whom any such violation is reported shall cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.
3. Any person convicted of violating any of the provisions of this article or the rules adopted under this article, or who impedes, obstructs, hinders or otherwise prevents or attempts to prevent the director or the director's duly authorized agent in the performance of the director's duty under the provisions of this article, is guilty of a class 2 misdemeanor.
4. In all prosecutions under this article involving the composition of a lot of commercial feed or customer-formula feed, a certified copy of the official analysis signed by the director or the director's agent shall be accepted as prima facie evidence of the composition of the feed.
5. Nothing in this article shall be construed as requiring the director or the director's representative to report for prosecution or for the institution of seizure proceedings minor violations of this article if the director believes that the public interest will be best served by a suitable notice of warning in writing.
6. The director may apply for and the court may grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this article or any rule adopted under this article notwithstanding the existence of other remedies at law.

B. Any monies collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

C. The provisions of this article shall not apply to:

1. Bulk commercial or customer formula feeds which are not adulterated pursuant to section 3-2611 and supplied for consumption on the premises owned or controlled by a commercial feedlot or commercial livestock operation.
2. Hay, straw, shover, silage, cobs, husks, hulls, chemical compounds or substances and whole seeds unmixed or physically altered entire unmixed seeds which are not adulterated pursuant to section 3-2611.

# Arizona Administrative Code (Rules)

## ARTICLE 9. COMMERCIAL FEED

### R3-3-901. Definitions

In addition to the feed ingredient definitions and feed terms in the Official Publication, which is incorporated by reference, on file with the Secretary of State, and does not contain any later amendments or editions, and the definitions in A.R.S. § 3-2601, the following terms apply to this Article:

1. "Commercial feed" means all materials, except whole seeds unmixed or physically altered entire unmixed seeds, that are distributed for use as feed or for mixing in feed. Commercial feed includes raw agricultural commodities distributed for use as feed or for mixing in feed when the commodities are adulterated within the meaning of section 3-2611. A.R.S. § 3-2601(2)
2. "Lot" means any distinct, describable, and measurable quantity that contains no more than 100 tons.
3. "Official Publication" means the Official Publication of the Association of American Feed Control Officials, effective January 1, 1999. Copies may be purchased from the Assistant Secretary/Treasurer, P.O. Box 478, Oxford, IN 47971.

### R3-3-902. Licensure; Fee; Ammoniation

A. Any person applying for a commercial feed license, under A.R.S. § 3-2609, to manufacture or distribute commercial feed shall provide the following information and a nonrefundable fee of \$10 for each year of the license:

1. A copy of the label of each commercial feed product intended for distribution within the state or not already filed by the applicant with the Department; and
2. The following information on the license application provided by the Department:
  - a. The name, title, and signature of the applicant;
  - b. The distributor or manufacturer name, mailing address, telephone, and facsimile number;
  - c. The social security number or tax identification number;
  - d. The date of the application;
  - e. The physical location, telephone, and facsimile number of the distributor or manufacturer, if different than subsection (A)(2)(b);
  - f. The name, address, telephone, and facsimile number of the distributor or manufacturer where inspection fees are paid, if different than subsection (A)(2)(b); and
  - g. The license time-period option.

B. A commercial feed license is nontransferable, expires on June 30, and shall, at the option of the applicant, be valid for 1 or 2 years.

C. Ammoniation. Any person who ammoniates feed or feed material for distribution or sale shall obtain a commercial feed license and is responsible for all testing, labeling, or other requirements pertaining to commercial feed, unless the feed is ammoniated on the premises of the person using the ammoniated feed.

### R3-3-903. Tonnage Reports; Inspection Fee

A. Quarterly tonnage report and inspection fee.

1. The inspection fee for all commercial feed sold or distributed in Arizona is 20¢ per ton. The tonnage shall be rounded to the nearest whole ton.

2. Any applicant applying for and receiving a new license after March 15, June 15, September 15, or December 15 is not required to file a quarterly tonnage report for the quarter in which the license application is issued. Any commercial feed distributed in the final two weeks of the initial application quarter shall be included on the next full quarterly report. Any person who distributed commercial feed without a license as

required under A.R.S. § 3-2609 shall pay all past due inspection fees and late penalties before a license is issued.

3. Any licensee not estimating annual tonnage shall file the following information on a quarterly statement provided by the Department no later than the last day of January, April, July, and October of each year for the preceding calendar quarter and pay the inspection fees and any penalties, if applicable:

a. If the inspection fee is being passed on to the purchaser:

- i. The assigned number and name of the currently licensed company;
- ii. The amount of commercial feed in whole tons and by type, indicating whether the commercial feed is bagged or bulk;
- iii. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
- iv. The date of the report.

b. If the licensee pays a tonnage fee for the distribution of a commercial feed:

- i. The amount of commercial feed in whole tons and by type, indicating whether the commercial feed is bagged or bulk;
- ii. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
- iii. The date of the report.

B. Estimated tonnage report. A licensee may estimate the annual commercial feed tonnage if it is 400 tons or less per year and the licensee does not pass the inspection fee responsibility to the purchaser.

1. The licensee shall submit the estimated annual commercial feed tonnage report to the Department with the annual inspection fee no later than July 31 of each year. The tonnage report shall contain:

- a. The estimated tonnage of commercial feed to be distributed;
- b. The amount of commercial feed in whole tons and by type, indicating whether the commercial feed is bagged or bulk;
- c. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
- d. The date of the report.

2. The licensee shall pay at least \$8 per year. Adjustments for overestimates or underestimates for licensees with 400 tons or less of actual tonnage sales shall be made on the next year's estimating form. Adjustments of underestimates of licensees with actual tonnage sales more than 400 tons shall be made no later than July 31 of each year.

3. The licensee shall verify the accuracy of the previous year's tonnage estimates to actual tonnage sales and submit the tonnage verification no later than July 31 of each year.

4. Overestimation of tonnage.

- a. The Department shall not refund any inspection fee based on an overestimation if the licensee does not re-license in the subsequent year;
- b. If a licensee applies for a license in the subsequent year, the Department shall apply any overestimation to the subsequent year's tonnage fees.

#### R3-3-904. Milk and Milk Products Decharacterized for Use as Commercial Feed

A. A person shall not sell, offer for sale, store, transport, receive, trade or barter, any milk or milk product for commercial feed unless the milk or milk product:

1. Meets Grade A milk standards as specified in A.A.C. R3-2-802;
2. Is produced as prescribed in A.A.C. R3-2-805; or
3. Is decharacterized with food coloring approved by the Federal Food, Drug, and Cosmetic Act and the decharacterization:
  - a. Does not affect nutritive value; and
  - b. Matches the color on the Color Requirement card, incorporated by reference and on file with the Office of the Secretary of State. Any person decharacterizing milk and milk products may obtain a Color Requirement

card from the Environmental Services Division Office, Arizona Department of Agriculture, 1688 West Adams, Phoenix, Arizona 85007.

B. Labeling. All milk or milk product commercial feed labels shall be approved by the Associate Director before use.

1. The principal display panel of a decharacterized milk or milk product commercial feed container shall prominently state "WARNING - NOT FOR HUMAN CONSUMPTION" in capital letters. The letters shall be at least 1/4 inch on containers of 8 oz. or less and at least 1/2 inch on all other containers.

2. The container label shall also bear the statement "This product has not been pasteurized and may contain harmful bacteria" in letters at least 1/8 inch in height.

C. Milk or milk products intended for commercial feed shall not be displayed, sold, or stored at premises where food is sold or prepared for human consumption, unless it meets Grade A standards or is decharacterized and clearly identified "Not for Human Consumption".

### R3-3-905. Label format

A. Ingredient statement.

1. Each ingredient or collective term for the grouping of ingredients not defined in the Official Publication shall be a common name.

2. All labels for commercial feed and customer-formula feed containing cottonseed or a cottonseed product shall separately list the ingredients in the ingredient statement in addition to any collective term listed.

B. Labeling and expression of guarantees.

1. All labeling and expression of guarantees shall comply with the commercial feed-labeling guide, medicated commercial feed labeling, and expression of guarantees requirements prescribed in the Official Publication, which is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions.

2. The label shall include the brand or product name, and shall indicate the intended use of the feed. The label shall not contain any false or misleading statements.

3. Directions for use and precautionary statements.

a. All labeling of whole cottonseed, commercial feed, and customer-formula feed containing any additive (including drugs, special purpose additives, or non-nutritive additives) shall clearly state its safe and effective use. The directions shall not require special knowledge of the purpose and use of the feed.

b. Directions for use and precautionary statements shall be provided for feed containing non-protein nitrogen as specified in R3-3-906.

c. All whole cottonseed or commercial feed, and customer-formula feed delivered to the consumer shall be accompanied by an accurate label, invoice, weight ticket or other documentation approved by the Department. The documentation shall be left with the consumer and shall contain the following:

i. "This feed contains 20 or less ppb aflatoxin and may be fed to any animal;" or

ii. "WARNING: This feed contains more than 20 ppb but not more than 300 ppb aflatoxin and shall not be fed to lactating animals whose milk is intended for human consumption."

d. A distributor of whole cottonseed or cottonseed product intended for further processing, planting seed, or for any other purpose approved by the Director, shall document in writing to the Department that:

i. The lot of whole cottonseed or cottonseed product will not be used as commercial feed until the lot is tested and compliant with all state laws; and

ii. The documentation prescribed in subsection (B)(3)(c) is not required.

e. The distributor shall maintain the documentation for 1 year.

f. The lot of whole cottonseed or cottonseed product shall be labeled as follows: "WARNING: This material has not been tested for aflatoxin and shall not be distributed for feed or fed to any animal until tested and brought into full compliance with all state laws."

### R3-3-906. Non-protein Nitrogen

A. Urea and other non-protein nitrogen products are acceptable ingredients in commercial feed for ruminant animals as a source of equivalent crude protein.

1. If commercial feed contains more than 8.75% of equivalent crude protein from all forms of non-protein nitrogen or if the equivalent crude protein from all forms of non-protein nitrogen exceeds 1/3 of the total crude protein, the label shall include directions for the safe use of the feed and the following precautionary statement: "Caution: Use as Directed".
  2. The directions for use and the precautionary statement shall be printed and placed on the label so that an ordinary person under customary conditions of purchase and use can read and understand the directions.
- B. Non-protein nitrogen products are acceptable ingredients in commercial feeds distributed to non-ruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from non-protein nitrogen sources in non-ruminant rations shall not exceed 1.25% of the total daily ration.
- C. A medicated feed label shall contain feeding directions or precautionary statements, or both, with sufficient information to ensure that the feed is properly used.

### R3-3-910. Drug and Feed Additives

#### A. Drug and feed additive approval.

1. Before a label is approved by the Associate Director for commercial feed containing additives (including drugs, other special purpose additives, or non-nutritive additives), the distributor may be required to submit evidence demonstrating the safety and efficacy of the commercial feed when used according to the label directions if the material is not recognized as a commercial feed.

2. If a complaint has been filed with the Department, the distributor may be required to submit evidence demonstrating the safety and efficacy of the commercial feed when used according to the label directions.

#### B. Evidence of safety and efficacy of a commercial feed may be:

1. If the commercial feed containing additives conforms to the requirements of "Food Additives Permitted in Feed and Drinking" in the Official Publication, which is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions; or

2. If the commercial feed is a substance generally recognized as safe and is defined in the Official Publication or listed as a "Substances Generally Recognized as Safe in Animal Feeds" in the Official Publication, which is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions.

### R3-3-913. Sampling Methods

A. Sampling commercial feed. The methods of sampling commercial feed shall comply with the procedures established in 4.1.01, Official Method 965.16 Sampling of Animal Feed, in the "Official Methods of Analysis of AOAC International," 16th Edition, 1997, which is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions of the incorporated matter. Copies may be purchased from AOAC International, 481 North Frederick Avenue, Suite 500, Gaithersburg, Maryland 20877-2417.

#### B. Sampling whole cottonseed.

1. Sample size - A gross sample not less than 30 pounds shall be taken from a lot. The gross sample shall consist of not less than 10 probes evenly spaced or 10 stream sample passes taken following the procedure prescribed in subsection (B)(4)(b).

2. Sample container - The sample container shall consist of a clean cloth, burlap, or paper or plastic mesh bags. The sample shall be delivered to the laboratory within 48 hours (excluding weekends and holidays), stored in a dry, well-aerated location, and the results of the analysis reported by a certified laboratory within 5 working days from receipt of sample.

#### 3. Sampling equipment. Sampling equipment includes:

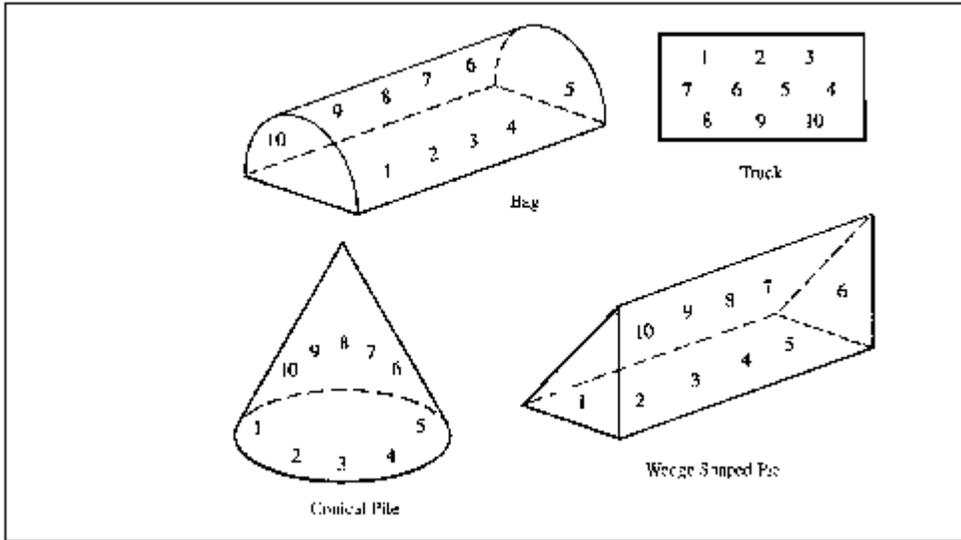
a. Scale, graduated in 1/2 pound increments, and any of the following:

b. Corkscrew trier, approximately 50 inches in length and capable of taking at least a 3-pound sample,

c. Pneumatic probe sampler such as the "Probe-a-Vac" pneumatic sampler,

d. Stream sampler: A container at least 8 inches x 5 inches x 5 1/2 inches attached to a pole that enables the sampler to pass the container through falling streams of cottonseed,

- e. Automatic stream samplers or other sampling equipment if scientific data documenting its ability to obtain a representative sample is approved by the Associate Director,
  - f. Shop-vac 1.5 hp vacuum system capable of holding 12 gallons, modified to hold a 15 ft. length of vacuum hose attached to a 13 ft. length of 3/4 inch PVC pipe.
4. Sampling procedure.
- a. If a corkscrew trier or Probe-a-Vac sampler is used, at least 10 evenly spaced probes shall be taken per lot. The probed samples shall be taken according to the following patterns:



- The probes shall penetrate at least 50 inches, and at least 2 of the 10 probes per sample shall reach the bottom of the lot being sampled. The probe shall be inserted at an angle perpendicular to the face of the lot.
- b. If a shop-vac system is used, at least 15 evenly spaced probes shall be taken per lot. The sampling patterns specified in subsection (B)(4)(a) shall be modified to allow for the additional samples.
  - c. Stream samples shall be taken while the cottonseed is being discharged, if there is a uniform discharge flow over a set period of time. The sample shall consist of at least 10 evenly timed and spaced passes through the discharge flow, resulting in the sample size specified in subsection (B)(1).
  - d. The gross sample shall be weighed to the nearest 1/2 pound but shall not be reduced in size. If any gross sample does not meet the minimum 30 pound weight, that gross sample shall be discarded and the sampling procedure repeated from the beginning. If the shop-vac gross sample is not at least 10 pounds, the sample shall be discarded and the sampling procedure repeated from the beginning.
  - e. The Associate Director shall approve any modified sampling procedure if scientific data is provided that documents that representative samples will be obtained through the modified sampling procedure.