

SUBCHAPTER 09D - CANNED DOG AND CAT FOOD

02 NCAC 09D .0101 DEFINITIONS AND TERMS

For the purpose of these regulations the following shall be construed respectively to mean the following:

- (1) "Principal display panel" means the part of a label that is most likely to be displayed, presented, shown or examined under normal and customary conditions of display for retail sale.
- (2) "Ingredient statements" means a collective and contiguous listing on the label of the ingredients of which the pet food is composed.
- (3) "Immediate container" means the unit, can, box, tin, bag or other receptacle or covering in which a pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers.
- (4) The term "drug" means any article for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and articles, other than feed, intended to affect the structure or any function of the animal body.
- (5) The term "pet food" shall be taken to mean "canned pet food" as defined in N.C.G.S. 106-284.33.

*History Note: Authority G.S. 106-284.41;
Eff. February 1, 1976;
Amended Eff. October 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.*

02 NCAC 09D .0102 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" and the regulations promulgated thereunder.
- (c) The information which is required to appear on the label under the "Guaranteed Analysis" shall be listed in the following order:
 - (1) Crude protein (minimum amounts);
 - (2) Crude fat (minimum amounts);
 - (3) Crude fiber (maximum amounts);
 - (4) Moisture (maximum amounts);
 - (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, and provided each package of such pet food shall be coded to indicate location of plant where manufactured or processed when more than one plant is involved in the processing or packaging of one pet food.
- (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 words "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 contains other than the following:

- (1) 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 Academy of Sciences; 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;
- (2) a combination of ingredients which when fed to a normal animal as the only source of nourishment will provide satisfactory for fertility of male and female, 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 had 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 balanced ration for dogs or cats only in the following instances:

- (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 the following are present:
 - (A) The pet food contains ingredients 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 of the National Academy of Sciences 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.

*History Note: Authority G.S. 106-284.1;
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.*

02 NCAC 09D .0103 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 ingredient statement or the ingredient statement shall show the source of the flavor. Distributors of pet food employing such flavor designation or claims on the labels of the product distributed by them shall, upon request, supply verification of the designated or claimed flavor to the Commissioner of Agriculture.

(b) The designation "100 percent" 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 to the exclusion of other ingredients and shall not be one representing any components of a mixture of a pet food product unless all components or ingredients are included in the name except as specified by (a), (e), or (f) of this Rule; provided, that if any ingredient or combination of ingredients is intended to impart a distinctive characteristic to the product which

is significant to the purchaser, the name of that ingredient or combination of ingredients may be used as a part of the name of the pet food if the following occur:

- (1) The ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product;
- (2) It does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients; and
- (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 percent 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 a 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.

(f) When an ingredient or a combination of ingredients derived from animals, poultry or fish constitutes at least 25 percent but less than 95 percent of the total weight of all ingredients of a pet food mixture the name or names of such ingredient or ingredients 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 is not misleading. All such ingredient names and the primary descriptive term shall be in the same size, style and color print.

(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 this Rule.

*History Note: Authority G.S. 106-284.1;
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.*

02 NCAC 09D .0104 EXPRESSION OF GUARANTEES

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

(b) Pet foods containing five percent or more mineral ingredients, shall include in the guaranteed analysis the minimum and maximum percentage of calcium (Ca) and salt (NaCl), and the minimum percentages of phosphorus (P) and iodine (I), if added. Minerals, except salt (NaCl), when quantitatively guaranteed shall be stated in terms of percentage of the element. The label of the pet food which is formulated as and represented to be a mineral supplement shall include a guarantee of all the minerals contained in the ingredient statement.

(c) The label of the pet food which is formulated as and represented to be a vitamin supplement, shall include a guarantee of the minimum content of each vitamin declared in the ingredient statement. Such vitamin guarantees shall be stated in units or milligrams per pound or ppm, as provided herein; vitamin E in USP or International Units; vitamin A, other than precursors of vitamin A, in USP Units; vitamin D in USP units: all other vitamins as true vitamins, not compounds, except pyridoxine hydrochloride, choline chloride, and thiamine; oils and concentrates containing vitamin A or vitamin D or both may be additionally labeled to show vitamin content in units per gram; and providing that the term "d-pantothenic acid" be used in stating the pantothenic acid guarantee.

(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 recognized authority. 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.

*History Note: Authority G.S. 106-284.1;
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.*

02 NCAC 09D .0105 INGREDIENTS

- (a) The maximum moisture in all pet foods shall be guaranteed and shall not exceed 78.00 percent 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 or juice which are so labeled, may contain moisture in excess of 78.00 percent.
- (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 non-quantitative terms may be misleading. Any ingredient for which the Association of American Feed Control Officials has established a name and definition shall be identified by the name so established. Any ingredient for which no name and definition has been so established shall be identified by the common or usual name of the ingredient. Brand or trade names shall not be used in the ingredient statement.
- (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.

*History Note: Authority G.S. 106-284.1;
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.*

02 NCAC 09D .0106 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 conform to the following:

- (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.

*History Note: Authority G.S. 106-284.1;
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.*

02 NCAC 09D .0107 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/or approval of a label for pet food, which contains additives, (Including drugs, other special purpose additives, or non-nutritive additives) the distributor may be required to submit evidence to prove the safety and efficacy of the pet food, when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food may be as follows:
 - (1) when the pet food contains such additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, 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 as defined in 02 NCAC 09D .0101 and is generally recognized as safe and effective for label use or is marketed subject to an application approved by the Food and Drug Administration under Title 21, U.S.C. 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.

*History Note: Authority G.S. 106-284.1;
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Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.*