

IC 15-19-7

Chapter 7. Commercial Feed

IC 15-19-7-1

"Brand name"

Sec. 1. As used in this chapter, "brand name" means a word, name, symbol, or device or any combination of words, names, symbols, graphics, or devices that identifies the commercial feed of a distributor and distinguishes it from that of other distributors.

As added by P.L.2-2008, SEC.10. Amended by P.L.99-2012, SEC.20.

IC 15-19-7-2

"Commercial feed"

Sec. 2. As used in this chapter, "commercial feed" means all materials, or combinations of materials, that are distributed or intended for distribution for use as feed or for mixing in feed, except as exempted in this section. The term does not include the following unless labeled with nutritional claims or adulterated within the meaning of section 29(1) of this chapter:

- (1) Unmixed whole seeds.
- (2) Unmixed, physically altered whole seeds that have not been chemically altered.
- (3) Commodities, compounds, or substances excluded by rules adopted by the state chemist under IC 4-22-2 in accordance with section 34 of this chapter.

As added by P.L.2-2008, SEC.10. Amended by P.L.99-2012, SEC.21.

IC 15-19-7-2.5

"Contract feeder"

Sec. 2.5. As used in this chapter, "contract feeder" means a person who:

- (1) is an independent contractor;
- (2) feeds commercial feed to animals under a contract where the commercial feed is supplied, furnished, or otherwise provided to the person; and
- (3) receives remuneration that is determined wholly or in part by feed consumption, mortality, profits, or amount or quality of product.

As added by P.L.99-2012, SEC.22.

IC 15-19-7-3

"Customer formula feed"

Sec. 3. As used in this chapter, "customer formula feed" means commercial feed that consists of a mixture of commercial feeds or feed ingredients, each batch of which is mixed to meet the request of the final purchaser that the mixture contain a specific content of ingredients, nutrients, or nonnutritive additives.

As added by P.L.2-2008, SEC.10. Amended by P.L.99-2012, SEC.23.

IC 15-19-7-4

"Distribute"

Sec. 4. As used in this chapter, "distribute" means to:

- (1) offer for sale, sell, exchange, or barter a commercial feed, or otherwise supply a commercial feed; or
- (2) supply, furnish, or otherwise provide commercial feed to a contract feeder.

As added by P.L.2-2008, SEC.10. Amended by P.L.99-2012, SEC.24.

IC 15-19-7-5**"Distributor"**

Sec. 5. As used in this chapter, "distributor" means a person who distributes.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-6**"Drug"**

Sec. 6. As used in this chapter, "drug" means:

- (1) an article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than humans; or
- (2) an article other than feed intended to affect the structure or any function of the animal body.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-7**"Feed ingredient"**

Sec. 7. As used in this chapter, "feed ingredient" means each of the constituent materials making up a commercial feed.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-8**"Label"**

Sec. 8. As used in this chapter, "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 is distributed.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-9**"Labeling"**

Sec. 9. As used in this chapter, "labeling" means all labels and other written, printed, or graphic matter:

- (1) upon a commercial feed or its containers or wrappers; or
- (2) accompanying a commercial feed.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-10**"Manufacture"**

Sec. 10. As used in this chapter, "manufacture" means to grind, mix, blend, or further process a commercial feed for distribution.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-11

"Mineral feed"

Sec. 11. As used in this chapter, "mineral feed" means a commercial feed, the primary purpose of which is to supply mineral elements or inorganic nutrients.

As added by P.L.2-2008, SEC.10. Amended by P.L.99-2012, SEC.25.

IC 15-19-7-12

"Official sample"

Sec. 12. As used in this chapter, "official sample" means a sample of feed taken by the state chemist or the chemist's agent in accordance with section 35(c) or 36 of this chapter.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-13

"Percent"

Sec. 13. As used in this chapter, "percent" or "percentage" means percentage by weight.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-14

"Person"

Sec. 14. As used in this chapter, "person" includes individuals, partnerships, limited liability companies, corporations, and associations.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-15

"Pet"

Sec. 15. As used in this chapter, except as provided in section 18 of this chapter, "pet" means a dog or cat.

As added by P.L.2-2008, SEC.10. Amended by P.L.99-2012, SEC.26.

IC 15-19-7-16

"Pet food"

Sec. 16. As used in this chapter, "pet food" means a commercial feed prepared and distributed for consumption by dogs or cats.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-17

"Product name"

Sec. 17. As used in this chapter, "product name" means the name of the commercial feed that:

- (1) identifies it as to kind, class, or specific use; and
- (2) distinguishes it from all other products bearing the same brand name.

As added by P.L.2-2008, SEC.10. Amended by P.L.99-2012, SEC.27.

IC 15-19-7-17.5**"Raw milk"**

Sec. 17.5. As used in this chapter "raw milk" means any milk or milk product, including butter, yogurt, cottage cheese, and cheese, from any species other than humans, that has not been pasteurized according to processes recognized by the United States Food and Drug Administration. The term does not include United States Department of Agriculture approved veterinary biologics.

As added by P.L.99-2012, SEC.28.

IC 15-19-7-18**"Specialty pet"**

Sec. 18. As used in this chapter, "specialty pet" means a domesticated animal normally maintained in a cage or tank, including a gerbil, hamster, bird, fish, snake, and turtle.

As added by P.L.2-2008, SEC.10. Amended by P.L.99-2012, SEC.29.

IC 15-19-7-19**"Specialty pet food"**

Sec. 19. As used in this chapter, "specialty pet food" means a commercial feed prepared and distributed for consumption by specialty pets.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-20**"Ton"**

Sec. 20. As used in this chapter, "ton" means a net weight of two thousand (2,000) pounds avoirdupois.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-21**Administration of chapter**

Sec. 21. This chapter shall be administered by the state chemist.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-22**Cooperation with state, federal, or private agencies**

Sec. 22. The state chemist may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the federal government, and private associations in order to carry out the purpose and provisions of this chapter.

As added by P.L.2-2008, SEC.10. Amended by P.L.99-2012, SEC.30.

IC 15-19-7-23**Publication and distribution of information on commercial feed**

Sec. 23. The state chemist shall publish at least annually, in a form that the state chemist considers proper:

- (1) information concerning the distribution of commercial feeds, together with data on their production and use that the state chemist considers advisable; and

(2) a report of the results of the analyses of official samples of commercial feeds distributed within Indiana.

However, the information concerning production and use of commercial feed may not disclose the operations of any person.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-24

Distributors; commercial feed licenses

Sec. 24. (a) A person who manufactures a commercial feed or whose name appears on the label of a commercial feed may not distribute the commercial feed in Indiana without a commercial feed license issued by the state chemist on a form provided by the state chemist.

(b) An out-of-state distributor may not cause a commercial feed to be distributed in Indiana without a commercial feed license issued by the state chemist on a form provided by the state chemist.

(c) A commercial feed license is issued for a calendar year and expires December 31 of the year for which the license was issued. Commercial feed license fees are as follows:

(1) The filing fee for a new or renewal license is fifty dollars (\$50).

(2) A late filing fee of fifty dollars (\$50) shall be added to the license fee if the applicant has distributed feed before filing the license application.

(3) A late filing fee of fifty dollars (\$50) shall be added to the filing fee for renewing a commercial feed license if the application for renewal is received after January 16.

(d) The form and content of commercial feed license applications shall be established by rules adopted by the state chemist under IC 4-22-2, in accordance with section 34 of this chapter.

As added by P.L.2-2008, SEC.10. Amended by P.L.99-2012, SEC.31.

IC 15-19-7-25

Refusal, revocation, suspension, or conditions of commercial feed license

Sec. 25. (a) The state chemist may refuse to issue a license to any manufacturer or distributor who is not in compliance with this chapter.

(b) The state chemist may revoke or suspend a commercial feed license that is not in compliance with this chapter.

(c) The state chemist may place conditions that limit production or distribution of a particular commercial feed on any person who is not in compliance with this chapter.

(d) A license may not be conditionalized, suspended, refused, or revoked unless the applicant or licensee has been given an opportunity to be heard before the state chemist.

As added by P.L.2-2008, SEC.10. Amended by P.L.99-2012, SEC.32.

IC 15-19-7-26

Commercial feed label information

Sec. 26. A commercial feed, except a customer formula feed, must be accompanied by a label bearing the following information:

- (1) The quantity statement.
- (2) The product name and the brand name, if any, under which the commercial feed is distributed.
- (3) The guaranteed analysis, expressed on an "as-is" basis, and stated in the terms that the state chemist, by rule, determines are 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 AOAC International.
- (4) The common or usual name of each ingredient used in the manufacture of the commercial feed. However, the state chemist, by rule, may:
 - (A) permit the use of a collective term for a group of ingredients that perform a similar function; or
 - (B) exempt a commercial feed or group of commercial feeds from the requirement for an ingredient statement if the state chemist finds that such a 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 for:
 - (A) commercial feeds containing drugs; and
 - (B) other feeds that the state chemist requires by rule as necessary for their safe and effective use.
- (7) Precautionary statements that the state chemist by rule determines are necessary for the safe and effective use of the commercial feed.

As added by P.L.2-2008, SEC.10. Amended by P.L.120-2008, SEC.88; P.L.99-2012, SEC.33.

IC 15-19-7-27

Customer formula feed label information

Sec. 27. Customer formula feed must be accompanied by a label, invoice, 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 quality statement of each commercial feed used in the mixture, and the common or usual name and net weight of each other ingredient used, and the specific content, stated in terms as required in section 26 of this chapter, of any nutrients and nonnutritive additives added at the request of the purchaser.
- (5) Adequate directions for use for:
 - (A) customer formula feeds containing drugs; and
 - (B) other feeds that the state chemist requires by rule as necessary for their safe and effective use.

(6) Precautionary statements that the state chemist by rule determines are necessary for the safe and effective use of the customer formula feed.

(7) If a drug containing product is used:

(A) a claim statement that includes the purpose of the medication; and

(B) the established name of each active drug ingredient and the amount of each drug used in the final mixture, expressed according to the requirements under subdivision (4).

As added by P.L.2-2008, SEC.10. Amended by P.L.120-2008, SEC.89; P.L.99-2012, SEC.34.

IC 15-19-7-28

Misbranding of commercial feed

Sec. 28. A commercial feed is considered misbranded if any of the following conditions exist:

(1) Its labeling is false or misleading in any particular.

(2) It is distributed under the name of another commercial feed.

(3) It is not labeled as required by section 26 or 27 of this chapter.

(4) It purports to be or is represented as a commercial feed, or it purports to contain or is represented as containing a commercial feed ingredient, unless the commercial feed or feed ingredient conforms to the definition, if any, prescribed by rule by the state chemist.

(5) Any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed on the label or labeling with sufficient conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in sufficient terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

As added by P.L.2-2008, SEC.10. Amended by P.L.99-2012, SEC.35.

IC 15-19-7-29

Adulteration of commercial feed

Sec. 29. A commercial feed is considered adulterated if it meets any of the following conditions:

(1) It bears or contains a poisonous or deleterious substance that may render it injurious to health. However, if the substance is not an added substance, the commercial feed is not considered to be adulterated under this subdivision if the quantity of the substance in the commercial feed does not ordinarily render it injurious to health.

(2) It contains an added poisonous, added deleterious, or added nonnutritive substance that is unsafe within the meaning of Section 406 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 346) other than one that is:

(A) a pesticide chemical in or on a raw agricultural commodity; or

(B) a food additive.

(3) It is, or it contains, a food additive that is unsafe within the meaning of Section 409 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 348).

(4) It is a raw agricultural commodity and it contains a pesticide chemical that is unsafe within the meaning of Section 408(a) of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(a)). However, 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 (21 U.S.C. 346a) and the raw agricultural commodity has been subjected to processing, such as canning, cooking, freezing, dehydrating, or milling, the residue of the pesticide chemical remaining in or on the processed feed is not considered unsafe if:

(A) the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice;

(B) the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity; and

(C) the feeding of the processed feed will not result, or is not likely to result, in a pesticide residue in the edible product of the animal that is unsafe within the meaning of Section 408(a) of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(a)).

(5) It is, or it contains, a color additive that is unsafe within the meaning of Section 721 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 379e).

(6) It is, or it contains, an animal drug that is unsafe within the meaning of Section 512 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

(7) If any valuable constituent has been in whole or in part omitted or abstracted from the commercial feed or any less valuable substance has been substituted for a valuable constituent.

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

(9) 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 state chemist to ensure that the drug:

(A) meets the requirement of this chapter as to safety; and

(B) has the identity and strength, and meets the quality and purity characteristics that it is represented to possess.

In adopting these rules, the state chemist shall adopt the current good manufacturing practice regulations for Type A medicated articles and Type B and Type C medicated feeds established under authority of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), unless the state chemist determines that

they are not appropriate to the conditions that exist in Indiana.

(10) It contains viable weed seeds in amounts exceeding the limits the state chemist establishes by rule.

(11) It consists in whole or in part of any filthy, putrid, or decomposed substance, or it is otherwise unfit for feed.

(12) It has been prepared, packed, or held under unsanitary conditions under which:

(A) it may become contaminated with filth; or

(B) it may have become injurious to health.

(13) It is, in whole or in part, the product of a diseased animal or of an animal that has died by means other than slaughter.

(14) It is unsafe within the meaning of Section 402(a)(1) or 402(a)(2) of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(a)(1) and 21 U.S.C. 342(a)(2)).

(15) Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

(16) It has been intentionally subjected to radiation, unless the use of radiation was in conformity with a regulation or exemption in effect under Section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348).

As added by P.L.2-2008, SEC.10. Amended by P.L.99-2012, SEC.36; P.L.13-2013, SEC.51.

IC 15-19-7-30

Inspection fee

Sec. 30. (a) A distributor shall pay to the state chemist an inspection fee at the rate of forty cents (\$0.40) per ton on all commercial feeds distributed into or within Indiana, subject to the following:

(1) No fee shall be paid on a commercial feed if the payment has been made by a previous distributor.

(2) No fee shall be paid on a customer formula feed if the inspection fee has been paid on all of the commercial feeds that are ingredients of the customer formula feed.

(3) On commercial feeds that contain ingredients on which the inspection fee has already been paid, credit shall be given for that payment.

(4) The minimum inspection fee is five dollars (\$5) per quarter if a quarterly feed tonnage report is required under section 31 of this chapter.

(b) In the case of a pet food or a specialty pet food that is distributed in Indiana in packages of ten (10) pounds or less, an annual inspection fee of fifty dollars (\$50) shall be paid instead of the tonnage inspection fee specified in subsection (a).

As added by P.L.2-2008, SEC.10. Amended by P.L.99-2012, SEC.37.

IC 15-19-7-31

Quarterly tonnage reports

Sec. 31. (a) Except as provided in subsection (b), a distributor

who is liable for the payment of the tonnage inspection fee under section 30 of this chapter shall file quarterly tonnage reports setting forth the number of net tons of commercial feeds distributed in Indiana during the preceding calendar quarter. The distributor shall file the reports not later than January 31, April 30, July 31, and October 31 of each year. Upon filing a report, the distributor shall pay the inspection fee at the rate stated in section 30 of this chapter. Inspection fees that are due and owing and have not been remitted to the state chemist within fifteen (15) days after the due date shall be increased by a penalty fee of ten percent (10%) of the amount due or fifty dollars (\$50), whichever is greater. The assessment of this penalty fee does not prevent the state chemist from taking other actions under this chapter.

(b) A resident of Indiana who only manufactures and distributes customer formula feeds and has met the requirements of section 30 of this chapter is exempt from filing quarterly feed tonnage reports.

(c) A distributor who is subject to the inspection fees for small packaged pet and specialty pet foods distributed in containers of ten (10) pounds or less under section 30 of this chapter shall do the following:

(1) Before beginning distribution, file with the state chemist a listing of small packaged pet and specialty pet foods to be distributed in Indiana in containers of ten (10) pounds or less, on forms provided by the state chemist. The listing under this subdivision shall be renewed annually before January 1 of each year and is the basis for the payment of the annual inspection fee of fifty dollars (\$50) per product. New products added during the year must be submitted to the state chemist as a supplement to the annual listing before distribution.

(2) If the annual renewal of the listing is not received before January 16 or if an unlisted product is distributed, pay a late filing fee of ten dollars (\$10) per product in addition to the normal charge for the listing. The late filing fee under this subdivision is in addition to any other penalty under this chapter.

As added by P.L.2-2008, SEC.10. Amended by P.L.99-2012, SEC.38.

IC 15-19-7-32

Records; cancellation of commercial feed license

Sec. 32. (a) Each person required to pay an inspection fee or to report under this chapter shall keep records that are necessary or required by the state chemist to accurately indicate the tonnage of commercial feed or the number of small packaged pet and specialty pet products distributed in Indiana. The state chemist or the state chemist's agent may examine the records to verify statements of tonnage.

(b) Failure to:

- (1) make an accurate statement of tonnage;
- (2) make an accurate listing of small packaged pet or specialty pet products;

- (3) pay the inspection fee; or
- (4) accurately report any of the information required to be submitted under this chapter;

is sufficient cause to cancel the commercial feed license of the person who fails to act or falsifies information under this subsection.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-33

Disposition of fees

Sec. 33. (a) Fees collected by the state chemist under this chapter shall be paid to the treasurer of Purdue University. The board of trustees of Purdue University shall expend the money received under this section on proper vouchers in meeting all necessary expenses in carrying out this chapter, including:

- (1) the employment of inspectors and chemists;
- (2) other expenses of the work of feed inspection as provided for by this chapter; and
- (3) any other expenses of Purdue University agricultural programs authorized by law and in support of the purposes of this chapter.

(b) Excess funds from the collection of fees under this chapter are subject to IC 15-16-2-36.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-34

Rules and regulations

Sec. 34. (a) Subject to subsection (b), and in the manner provided by IC 4-22-2, the state chemist may adopt:

- (1) rules for commercial feeds, pet foods, and specialty pet foods as specifically authorized in this chapter; and
- (2) other reasonable rules necessary for the efficient enforcement of this chapter.

(b) In the interest of uniformity, the state chemist shall adopt the following by rule unless the state chemist determines that the following are inconsistent with this chapter or are not appropriate to conditions that exist in Indiana:

- (1) The official definitions of feed ingredients and official feed terms adopted by the Association of American Feed Control Officials and published in the official publication of that organization.
- (2) Any regulation promulgated under the federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) if the state chemist would have the authority under this chapter to adopt such a rule.

(c) The state chemist may adopt rules under IC 4-22-2 to exclude from the definition of "commercial feed" commodities, such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when the commodities, compounds, or substances are not intermixed or mixed with other materials.

(d) The state chemist may adopt rules under IC 4-22-2 to require copies of labels and labeling.

As added by P.L.2-2008, SEC.10. Amended by P.L.99-2012, SEC.39.

IC 15-19-7-34.5

Inspection, auditing, and certification of commercial feed manufacturers and distributors

Sec. 34.5. (a) The state chemist may:

- (1) inspect; and
- (2) on the request of a commercial feed manufacturer or distributor, audit and certify;

commercial feed manufacturers and distributors that export commercial feed.

(b) The state chemist may adopt rules under IC 4-22-2 to inspect, audit, and certify commercial feed manufacturers and distributors that export commercial feed under subsection (a).

(c) The rules adopted under this section may incorporate existing standards that are applicable to a particular manufacturer or distributor.

(d) The rules adopted under this section must include a schedule of fees for all activities required under this section to inspect, audit, and certify a commercial feed manufacturer or distributor.

As added by P.L.8-2011, SEC.1. Amended by P.L.6-2012, SEC.109.

IC 15-19-7-35

Inspection of factories, warehouses, or establishments; notice of inspection

Sec. 35. (a) Upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, officers or employees designated by the state chemist may:

- (1) during normal business hours, enter:
 - (A) a factory, warehouse, or establishment in Indiana in which commercial feeds are manufactured, processed, packed, or held for distribution; and
 - (B) a vehicle being used to transport or hold commercial feeds; and

- (2) at reasonable times, within reasonable limits, and in a reasonable manner, inspect such a factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling;

to enforce this chapter and to determine compliance with this chapter, including whether or not any operations are subject to this chapter. In determining compliance with good manufacturing practice rules adopted under section 29(9) of this chapter, the inspection may include the verification of only the records and production and control procedures necessary to determine compliance with those rules.

(b) A separate notice shall be given for each inspection, but a notice is not required for each entry made during the period covered by the inspection. Each inspection must begin and be completed with reasonable promptness. The person in charge of the facility or vehicle shall be notified upon completion of the inspection.

(c) An officer or employee who inspects a factory, warehouse, or other establishment and obtains a sample in the course of the inspection shall, upon completion of the inspection and before leaving the premises, give to the owner, operator, or agent in charge a receipt describing the samples obtained.

(d) The state chemist shall forward the results of analyses of official samples to the person named on the label and to the person in whose possession the sample was taken. If the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded, and upon request within thirty (30) days following receipt of the analysis, the state chemist shall furnish to the licensee or labeler a portion of the sample concerned.

(e) The state chemist, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample obtained and analyzed as provided for in subsection (d) and section 36 of this chapter.

As added by P.L.2-2008, SEC.10. Amended by P.L.99-2012, SEC.40.

IC 15-19-7-36

Sampling and analysis

Sec. 36. (a) For the purpose of the enforcement of this chapter, the state chemist or the state chemist's agent may enter upon any public or private premises, including any vehicle of transport, during regular business hours to have access to, and to obtain samples and examine records relating to distribution of commercial feeds.

(b) Sampling and analysis under this chapter shall be conducted in accordance with methods published by AOAC International or in accordance with other generally recognized methods.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-37

Warrants

Sec. 37. If the owner of a factory, warehouse, or establishment described in section 35(a) of this chapter or the owner's agent refuses to admit the state chemist or the state chemist's agent to inspect in accordance with section 35(a) and 35(b) of this chapter, the state chemist may obtain from any state court a warrant directing the owner or the owner's agent to submit the premises described in the warrant to inspection.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-38

"Stop sale or withdrawal from distribution" order

Sec. 38. If the state chemist or the state chemist's agent has reasonable cause to believe that a lot of commercial feed is being distributed in violation of this chapter or a rule adopted under this chapter, the state chemist or agent may issue and enforce a written or printed "stop sale or withdrawal from distribution" order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the state chemist or a

court. The state chemist shall release the lot of commercial feed when the distributor has complied with this chapter and the rules adopted under this chapter. If compliance is not obtained within thirty (30) days, the state chemist may begin, or upon request of the distributor or licensee shall begin, proceedings for condemnation under section 39 of this chapter.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-39

Seizure of commercial feed on complaint of state chemist; court procedure

Sec. 39. A lot of commercial feed that is not in compliance with this chapter or a rule adopted under this chapter is subject to seizure on complaint of the state chemist to a court with jurisdiction in the area in which the commercial feed is located. If the court finds the commercial feed is in violation of this chapter and orders the condemnation of the commercial feed, the commercial feed shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of Indiana. However, the disposition of the commercial feed may not be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial feed or for permission to process or relabel the commercial feed to bring it into compliance with this chapter.

As added by P.L.2-2008, SEC.10. Amended by P.L.99-2012, SEC.41.

IC 15-19-7-40

Prohibited acts

Sec. 40. A person commits a Class A infraction if the person knowingly engages in any of the following:

- (1) The manufacture or distribution of a commercial feed that is adulterated or misbranded.
- (2) The adulteration or misbranding of a commercial feed.
- (3) The distribution of agricultural commodities, such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, that are adulterated within the meaning of section 29(1) of this chapter.
- (4) The removal or disposal of a commercial feed in violation of an order under section 38 or 39 of this chapter.
- (5) The failure to obtain a commercial feed license under section 24 of this chapter.
- (6) The failure to pay inspection fees or file reports as required by section 30, 31, or 34.5 of this chapter.
- (7) The distribution of raw milk for use as a commercial feed for any species if the raw milk is not prominently labeled "Not for Human Consumption".
- (8) Distribution of any animal feed that is stated, promoted, or advertised by the person to be suitable for human food unless the feed meets all federal, state, and local health laws and labeling requirements for human consumption.

As added by P.L.2-2008, SEC.10. Amended by P.L.8-2011, SEC.2; P.L.99-2012, SEC.42.

IC 15-19-7-41**Hindering performance of duty**

Sec. 41. A person who impedes, hinders, or otherwise prevents the state chemist or the state chemist's agent in performance of the state chemist's duty under this chapter commits a Class C infraction.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-42**Discretion of director or representative regarding certain penalties**

Sec. 42. This chapter does not require the state chemist or the state chemist's agent to:

- (1) report for prosecution;
- (2) institute seizure proceedings; or
- (3) issue a withdrawal from distribution order;

as a result of minor violations of the chapter if the state chemist or the state chemist's agent believes the public interest will best be served by suitable notice of warning in writing.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-43**Prosecuting attorneys; duties**

Sec. 43. A prosecuting attorney to whom a violation of this chapter or a rule adopted under this chapter is reported shall consider the institution and prosecution of appropriate proceedings in a court with jurisdiction without delay. However, before the state chemist reports a violation for prosecution, the state chemist shall give an opportunity to the distributor to present the distributor's view to the state chemist.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-44**Temporary or permanent injunction**

Sec. 44. The state chemist may apply for and the appropriate court may grant a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or a rule adopted under this chapter, notwithstanding the existence of other remedies at law. The injunction may be issued without bond.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-45**Judicial review**

Sec. 45. A person adversely affected by an act, an order, or a ruling made under this chapter, other than the penalty provisions of this chapter, may not later than forty-five (45) days after the date of the act, order, or ruling bring an action in a court with jurisdiction for judicial review. The proceeding must be brought under IC 4-21.5 or, if IC 4-21.5 is inadequate, the proceeding must be brought as an applicable legal action, including an action for declaratory judgment or as a prohibitory or mandatory injunction.

As added by P.L.2-2008, SEC.10.

IC 15-19-7-46

Confidential information; disclosure; violation

Sec. 46. A person who recklessly uses to the person's own advantage or recklessly reveals to persons other than the state chemist, an agent of the state chemist, or to the courts when relevant in any judicial proceeding any information acquired under this chapter concerning any method, records, formulations, or processes entitled to protection as a trade secret commits a Class B misdemeanor. However, this does not prohibit the state chemist or the state chemist's agent from exchanging information of a regulatory nature with officials of the United States government or of other states who are also prohibited by law from revealing protected information.

As added by P.L.2-2008, SEC.10.