

STATE OF WISCONSIN )  
 )  
DEPARTMENT OF AGRICULTURE, ) ss.  
TRADE AND CONSUMER PROTECTION )

Docket No. 97-R-6

CERTIFICATION:

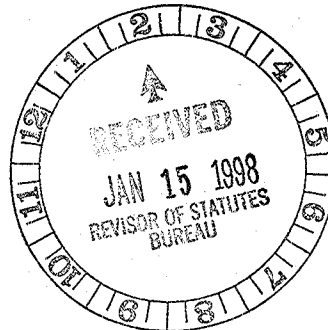
I, Ben Brancel, Secretary, State of Wisconsin, Department of Agriculture, Trade and Consumer Protection, and custodian of the official records of said Department, do hereby certify that the annexed order amending chapter ATCP 42, Wisconsin Administrative Code, relating to commercial feed was duly approved and adopted by the Department on January 14, 1998.

I further certify that said copy has been compared by me with the original on file in the Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Department offices in the city of Madison, this 14th day of January, 1998.



*Ben Brancel*  
Ben Brancel  
Secretary



3-1-98

1/12/98

ORDER OF THE STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION  
ADOPTING, AMENDING AND REPEALING RULES

The state of Wisconsin department of agriculture, trade and consumer protection hereby submits the following order to amend ATCP 42.04(3)(b), and to repeal and recreate ATCP 42.01(3) and 42.04(1) and (2)(intro.), relating to commercial feed.

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Analysis by the Department of Agriculture,  
Trade and Consumer Protection

Statutory authority: s. 93.07(1) and 94.72(13)(a), Stats.  
Statutes interpreted: s. 94.72, Stats.

This rule amends the department's current rules related to commercial feed under ch. ATCP 42, Wis. Adm. Code.

Commercial Feed Labeling; General

The current rules establish specific labeling requirements for commercial feed, including label contents and format. Under the current rules, commercial feed other than "custom-mixed feed" and dog and cat food must be labeled with all of the following information:

- . The product name.
- . Drug information if the feed contains any drug.
- . A statement of purpose.
- . A guaranteed analysis.
- . An ingredient statement.
- . Use directions and precautionary statements, if required.
- . The name and address of the manufacturer or distributor.
- . A declaration of net quantity.

### "Custom-Mixed Feed"

The current rules spell out different and less rigorous labeling requirements for "custom-mixed feed." Under the current rules, a "custom-mixed feed" is a commercial feed which a manufacturer prepares at the request of a retail purchaser according to a formula provided by the retail purchaser. This rule expands the definition of "custom-mixed feed" so that it also includes commercial feed made from ingredients provided, in significant part, by the retail purchaser.

### "Mill Formulated Feed"

Under the current rules, a "mill formulated feed" means a commercial feed manufactured, on an individual basis, according to a formula provided by the feed manufacturer or labeler for the customer of that feed manufacturer or labeler. A "labeler" includes a person, other than the final retail purchaser, who retains proprietary rights to the feed formula.

Under the current rules, "mill formulated" feed must comply with general feed labeling requirements, and may not be labeled according to the less rigorous labeling standards for "custom-mixed" feed. Under this rule, a "mill formulated" feed may be labeled in the same manner as a "custom-mixed" feed unless the purchaser requests otherwise.

### Bulk Feed Labeling

Under current rules, packaged commercial feed must be labeled on the feed package. If commercial feed is sold in bulk rather than packaged form, label information may be provided on a delivery slip that accompanies the bulk delivery. This rule clarifies that when bulk deliveries of commercial feed are bagged at retail at the request of the purchaser, label information need not appear on the individual bags if each bag is clearly identified as part of a bulk delivery for which a bulk delivery slip is provided. If the bulk commercial feed contains one or more drugs, the identification on each bag shall include the word "medicated."

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SECTION 1. ATCP 42.01(3) is repealed and recreated to read:

ATCP 42.01(3) "Custom-mixed feed" means a commercial feed, other than a mill-formulated feed, which a manufacturer prepares at the request of a final retail purchaser who does either of the following:

(a) Provides one or more ingredients comprising a significant portion of the commercial feed.

(b) Specifies the formula for the commercial feed. This paragraph does not apply if the purchaser obtains the formula from the feed manufacturer or labeler, but does apply if the purchaser obtains the formula from any of the following:

1. The label of a prepackaged commercial feed concentrate or premix.
2. A person other than the feed manufacturer or labeler.

SECTION 2. ATCP 42.04(1) and (2)(intro.) are repealed and recreated to read:

ATCP 42.04(1) GENERAL. Commercial feed shall be labeled according to this subchapter except that:

- (a) Custom-mixed feed shall be labeled according to subch.

IV.

(b) Mill formulated feed may be labeled in the same manner as custom-mixed feed under subch. IV unless the purchaser requests labeling under this subchapter. If a manufacturer labels mill formulated feed according to subch. IV, the manufacturer shall keep the same records which a manufacturer of custom-mixed feed is required to keep under s. ATCP 42.24(2).

(c) Dog and cat food shall be labeled according to subch. V.

(2)(intro.) Except as provided under sub. (1)(a) to (c), commercial feed shall be labeled with all of the following information in the following order:

**SECTION 3.** ATCP 42.04(3)(b) is amended to read:

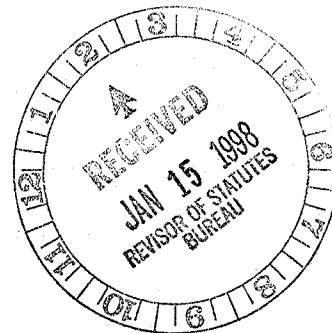
ATCP 42.04(3)(b) If commercial feed is distributed in bulk, the label information required under sub. (2) shall appear on a bulk delivery slip which accompanies the commercial feed. If a bulk delivery of commercial feed is bagged at retail at the request of the retail purchaser, the bags comprising that bulk delivery need not be individually labeled under par. (a) if each bag is clearly identified as part of the bulk delivery for which a bulk delivery slip is provided. If the bulk commercial feed contains one or more drugs, the identification on each bag shall include the word "medicated."

**EFFECTIVE DATE:** The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided under s. 227.22(2)(intro.), Stats.

Dated this 15<sup>th</sup> day of January, 19 98.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

BY Ben Brancel  
Ben Brancel, Secretary





State of Wisconsin  
Tommy G. Thompson, Governor

Department of Agriculture, Trade and Consumer Protection

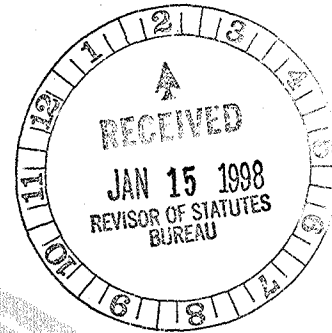
Ben Brancel, Secretary



DATE January 13, 1998

TO: Gary Poulson - Revisor of Statutes Office  
131 West Wilson Street, Suite 800

FROM: Ben Brancel, Secretary



SUBJECT: Clearinghouse Rule No. 97-086, Chapter ATCP 42, Relating to Commercial Feed

The state of Wisconsin department of agriculture, trade and consumer protection hereby submits the following information for filing with the above rule.

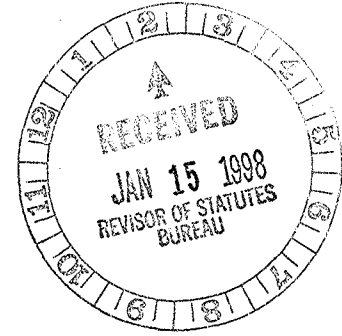
**Background**

Currently in Wisconsin, 1200 firms distribute 3.4 million tons of commercial feed products annually. This includes 2.1 million tons of feed ingredients and 1.3 million tons of formulated feed products. The department regulates the manufacture and distribution of commercial feed under s. 94.72, Stats. Commercial feed includes feed for domestic livestock and pets.

Comprehensive changes to the feed rule become effective on October 1, 1997. Provisions of this rule mandate specific labeling for mill-formulated feed. During the outreach and education phase for implementing the changes the department was told by industry that the new "mill-formulated" feed labeling requirements would create undue hardships and difficulties for small commercial feed manufacturers. Industry also stated that farmers are satisfied with the current labeling format for custom-mixed feed (a form of commercial feed) and that the purchasers should be allowed a choice of label format.

The department subsequently met with the parties to develop proposed modifications of the current rule. The proposal provides options for industry and purchasers on how to label feeds resulting in:

- Label formats consistent with past information provided to farmers and increased understanding and compliance by allowing purchasers a choice of label format.
- Eliminated need for small feed manufacturers to go to computer generated labeling.



### Rule Provisions

This rule addresses the following topics:

#### Definitions

This rule modifies the current rules definition of "custom-mixed" feed, spelling out different and less rigorous labeling requirements for "custom-mixed feed."

#### Commercial Feed Labeling

##### "Mill-formulated" Feeds

This rule modifies the current rule's requirements for labeling of "mill-formulated" feeds, allowing labeling options for both manufacturers and purchasers of commercial feed products in this category. This rule would allow "mill formulated" feeds to be labeled with the same format and required information used for "custom-mixed" feeds, when agreeable to both manufacturer and the final retail purchaser. If the manufacturer choose to retain the identity of a mill-formulated feed's formula, they must provide the customer with a full guarantee formatted label. The purchaser may request a label with the fully guaranteed format instead of the "custom-mixed" formatted label, if they choose.

##### Bulk Feed Labeling

Under the current rule, each package of commercial feed must have the required label attached. This proposal would modify that requirement for commercial feeds produced as bulk feed, but packaged at retail at the request of the final retail purchaser. Delivery of "bulk/bagged" feeds of this type would be accompanied with the required commercial feed label. Instead of the full label being attached to each package, an identifier would be attached to each and every package. This "identifier" would clearly mark the package as part of a specific feed shipment represented by the accompanying feed label. This rule modification is designed to facilitate small feed manufacturers, who have difficulties in reproducing labels in a timely manner.

#### Effective Date

This rule would take effect on the first day of the month following publication in the Wisconsin administrative register, as provided under s. 227.22(2)(intro.), Stats.



Gary Poulson  
January 13, 1998  
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### **Small Business and Fiscal Effects**

A final regulatory flexibility analysis and fiscal note are attached. Many feed business are small businesses, as are independent feed consultants and the farmers purchasing animal feeds. The final regulatory flexibility analysis explains the expected small business impacts and efforts to minimize these impacts. No state fiscal impacts are expected. The department has not prepared an environmental assessment on the proposed rule because the proposal will have no significant impact on the human environment. An environmental impact statement is not required under s. 1.11, Stats.

### **Comments from Legislative Committees**

On November 5 this department transmitted the above rule for legislative committee review. On November 6, the rule was assigned to the Senate Committee on Agriculture and Environmental Resources and on November 13, the rule was assigned to the Assembly Committee on Agriculture.

The Senate Committee on Agriculture and Environmental Resources and Assembly Committee on Agriculture did not take any action on the rule during their review periods.