

AGRICULTURAL EXPERIMENT STATION
(Amended After Comments)

12 KAR 3:042. Statements of calorie content.

RELATES TO: KRS 250.501, 250.521

STATUTORY AUTHORITY: KRS 250.571(1)

CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for efficient enforcement of KRS 250.491 to 250.631. This administrative regulation establishes a uniform procedure for determining the caloric content of dog and cat foods and expressing it on product labels.

Section 1. The label of a dog or cat food, including snacks, treats, and supplements, shall include a statement of calorie content and comply with the requirements established in subsections (1) through (5) of this section.

(1) The statement shall be separate and distinct from the "Guaranteed Analysis" and shall appear under the heading "Calorie Content".

(2) The statement shall be measured in terms of metabolizable energy (ME) on an "as fed" basis and shall be expressed both as "kilocalories per kilogram" ("kcal/kg") of product, and as kilocalories per familiar household measure (for example, cans or cups) or unit of product (for example, treats or pieces).

(3) The calorie content shall be determined by one (1) of the following methods:

(a) By calculation using the following "Modified Atwater" formula:

$$\underline{ME(kcal/kg) = 10[(3.5 \times CP) + (8.5 \times CF) + (3.5 \times NFE)]}$$

where ME = metabolizable energy,

CP = % crude protein "as fed,"

CF = % crude fat "as fed,"

NFE = % nitrogen-free extract (carbohydrate) "as fed," and the percentages of CP and CF are the average values of these components in the product as determined by sound scientific methods, such as scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product. The NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture and ash (determined in the same manner as CP and CF); or

(b) In accordance with a testing procedure established by the Association of American Feed Control Officials (AAFCO), incorporated by reference in 12 KAR 3:012.

(4) An affidavit shall be provided upon request of the director, substantiating that the calorie content was determined by:

(a) Subsection (3)(a) of this section, in which case the summary data used in the calculation shall be included in the affidavit; or

(b) Subsection (3)(b) of this section, in which case the summary data used in the determination of calorie content shall accompany the affidavit.

(5) The caloric content statement shall appear as one (1) of the following:

(a) The heading "Calorie Content" on the label or other labeling shall be followed parenthetically by the word "calculated" if the caloric content is determined in accordance with subsection (3)(a) of this section; or

(b) The heading "Calorie Content" on the label or other labeling shall be followed parenthetically by the word "fed" if the caloric content is determined in accordance with subsection (3)(b) of this section.

Section 2. A comparative claim shall:

- (1) Not be false, misleading, or given undue emphasis; and
- (2) Be based on the same methodology for all products compared.

Section 3. Regulations in Sections 1 through 2 shall remain in effect until June 30, 2030.

Section 4. The statement shall be determined in terms of metabolizable energy (ME) on an "as fed" moisture basis by one of the following methods then converted to Calories (kcal) per the familiar household unit (i.e., can, measuring cup, treat, or piece):

- (1) By calculation (indicated with a "†" in the Pet Nutrition Facts) using the following "Modified Atwater" formula: $ME \text{ (kcal/kg)} = 10[(3.5 \times CP) + (8.5 \times CF) + (3.5 \times NFE)]$, where ME = metabolizable energy, CP = % crude protein "as fed," CF = % crude fat "as fed," NFE = % nitrogen-free extract (carbohydrate) "as fed," and the percentages of CP and CF are the average values of these components in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product. The NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture, and ash (determined in the same manner as CP and CF); or
- (2) In accordance with testing procedures determined by the Association of American Feed Control Officials (AAFCO) and indicated as "fed" in the Pet Nutrition Facts (12 KAR 3:022 Section 10).

Section 5. An affidavit shall be provided upon the request of [regulatory authority], substantiating that the Calorie content was determined by:

- (1) Regulation 12 KAR 3:042 Section 4 (1) in which case the summary data used in the calculation shall be included in the affidavit; or
- (2) Regulation 12 KAR 3:042 Section 4 (2) in which case the summary data used in the determination of Calorie content shall accompany the affidavit.

Section 6. The Calories from protein, fat, and carbohydrate as required in the Pet Nutrition Facts are determined using the following calculation, then converted to Calories (kcal) per the familiar household unit (i.e., can, measuring cup, treat, or piece):

- (1) Protein: $ME \text{ (kcal/kg)} = 10(3.5 \times CP)$, where ME = metabolizable energy, CP = % crude protein "as fed" and the percentage of CP is the average value in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.
- (2) Fat: $ME \text{ (kcal/kg)} = 10(8.5 \times CF)$, where ME = metabolizable energy, CF = % crude fat "as fed" and the percentage of CF is the average value in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.
- (3) Carbohydrate: $ME \text{ (kcal/kg)} = 10(3.5 \times NFE)$, where ME = metabolizable energy, NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture, and ash; CP = % crude protein "as fed," CF = % crude fat "as fed" and the percentages are the average values of these components in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.

Section 7. Comparative claims shall not be false, misleading, or given undue emphasis and shall be based on the same methodology for the products compared.

DR. JAMES MATTHEWS, Director of Agricultural Experiment Station

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