

12 KAR 2:066. Suitability.

RELATES TO: KRS 250.541(2)(e)

STATUTORY AUTHORITY: KRS 250.541(2)(e), 250.571(1)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds. This administrative regulation establishes criteria that commercial feed shall meet in order to be suitable for its intended purpose and establishes the procedure for an affidavit attesting to the nutritional adequacy of a commercial feed.

Section 1. The nutritional content of commercial feed shall be as stated by its labeling. The feed, its labeling and stated use shall be suitable for the intended purpose of the product.

Section 2.

(1) Commercial feed for swine, poultry, or fish or milk replacer for veal or herd replacement calves, if fed according to directions, shall meet the applicable nutrient requirements established by the National Research Council, and incorporated by reference in this administrative regulation.

(2) A signed affidavit of suitability attesting to the nutritional adequacy of the feed based upon valid scientific evidence shall be submitted to the director upon request as established in Section 6 of this administrative regulation.

Section 3. An affidavit of suitability certifying that the feed sponsor has valid scientific knowledge assuring suitability of the nutritional content of the feed shall be submitted to the director if the suitability of the feed is challenged.

Section 4. Submission of a completed Affidavit of Suitability shall serve as proof of suitability. The feed sponsor shall not be required to provide scientific information nor a reference thereto unless the director has reason to believe that the feed is not suitable for its intended use. The director shall have the authority to conduct a hearing requiring the feed sponsor to produce sufficient scientific evidence of the feed's suitability.

Section 5. Upon receipt by the director of a complete Affidavit of Suitability, the feed sponsor may continue to market the product. If an affidavit is not properly submitted, the director may, pursuant to KRS 250.091(1) or 250.601(2), place or continue a stop-sale order on the feed and order its removal from the marketplace as well as all other feeds manufactured or distributed under the same product name.

Section 6. The Affidavit of Suitability shall contain the following information:

- (1) The feed manufacturer's name;
- (2) The feed's product name;
- (3) The name and title of the affiant submitting the document;
- (4) The statement that the affiant has knowledge of the nutritional content of the feed and is familiar with the nutritional requirements of the animal species and animal class for which the product is intended, as established by the National Research Council of the National Academy of Sciences;
- (5) The statement that the affiant has knowledge of valid scientific evidence that supports the suitability for the intended animal species and animal class for which the feed is intended. If the manufacturer states on the label a nutrient guarantee below the minimum National Research Council nutrient recommendation, the manufacturer shall specify in the Affidavit of Suitability scientific evidence demonstrating that a feed with that nutrient content is suitable for its intended purpose;
- (6) The date of submission; and

(7) The signature of the affiant notarized by a notary public.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) Nutrient Requirements of Swine, Eleventh Revised Edition, 2012, National Research Council;
- (b) Nutrient Requirements of Dairy Cattle, Seventh Revised Edition, 2001, National Research Council;
- (c) Nutrient Requirements of Fish, 1993, National Research Council; and
- (d) Nutrient Requirements of Poultry, Ninth Revised Edition, 1994, National Research Council.

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(012 KAR 002:066. 23 Ky.R. 1809; eff. 1-10-1997; Am. 25 Ky.R. 897; 2358; eff. 4-14-1999; 45 Ky.R. 401; 942; eff. 10-10-2018; Crt eff. 9-11-2025.)