

INGREDIENT DECLARATION OF COMPOUND FEEDINGSTUFFS BY PERCENTAGE WEIGHT OF INCLUSION ("PERCENTAGE INGREDIENT DECLARATION")

GUIDANCE ON NEW LABELLING REQUIREMENTS

This document is an introductory guide to the provisions of the new legislation. It is intended for the use of enforcement personnel and feed business operators (for example, feed manufacturers, importers, merchants, food businesses selling food products into the animal feed chain), including new businesses wishing to gain an understanding of the legislation. It should be read in conjunction with, not as a substitute for, the relevant legislation. Its interpretation of the law is only the opinion of the Food Standards Agency. Only the courts can decide whether in particular circumstances an offence has been committed. Feed business operators who have a specific query should seek advice from their legal advisers, relevant trade association(s) or enforcement authority.

Introduction

1. The national requirements for the labelling of compound feedingstuffs for farmed livestock changed as from 17 November 2006.
2. Before Directive 2002/2/EC came into force, feed manufacturers could declare the ingredients of compound feedingstuffs either by category of ingredient or by specific ingredient name, in each case in descending order by weight. The Directive removed the option to declare by category of ingredient for animals other than pets. This Directive also introduced a requirement for ingredients to be declared by specific name in descending order by their percentage weight of inclusion, subject to a tolerance of +/-15% for each declaration; and a requirement for feed manufacturers to provide exact percentage ingredient information to their customers on request.
3. These two requirements were temporarily suspended by the courts in the UK while their legitimacy was tested before the European Court of Justice. The Court handed down its ruling in December 2005, partially upholding the provisions of the Directive 2002/2/EC. It ruled that ingredient declaration by specific name in descending order by percentage weight, subject to a tolerance of +/-15%, was proportionate to the aim of protecting consumer health. However, the Court ruled that the provision of exact percentage ingredient information to customers on request was disproportionate and should be struck out.
4. Under Article 10 of the Treaty establishing the European Communities, the UK is under a legal obligation to give effect to this ruling. Regulation 2(2) of the Feeding Stuffs (England) (Amendment) Regulations 2006 therefore introduces into Schedule 3 to the Feeding Stuffs (England) Regulations 2005 a new provision which requires the ingredients of compound feedingstuffs for animals other than pet

animals to be declared in descending order by percentage weight, subject to a tolerance of +/-15% for each declaration. Separate but parallel Regulations have been made in Scotland, Wales and Northern Ireland, introducing equivalent provisions.

5. This guidance provides information in question-and-answer form. It is a working document which will be subject to revision as necessary. Legal definitions of some of the terms used are given in an Annex.

6. This guidance uses the terms "label" and "labelling", although the formal legal term for the labelling declaration is "statutory statement". The Feeding Stuffs (England) Regulations 2005 require the statutory statement to be given on an accompanying document when compound feedingstuffs are delivered in bulk.

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December 2006**

BASIC REQUIREMENTS

Q1 What are the new labelling requirements for compound feedingstuffs?

A1 From 17 November 2006, the ingredients of compound feedingstuffs for farmed livestock have been required to be declared in descending order by weight according to their percentage of the total weight of the feedingstuff. The percentages must be shown on the label, and there is a tolerance limit of +/-15% of the declared amount for each percentage declaration.

Q2 Who is covered by this legislation?

A2 These labelling requirements apply to everyone who “puts into circulation” compound feedingstuffs for farmed livestock. (See the Annex for the definition of some of these terms.) This includes feed manufacturers, merchants, farmers selling to other farmers and producers of food for human consumption who sell surplus or unused food products into the feed chain (whether they sell to feed compounders or direct to farmers). Compound feedingstuffs imported from non-EU countries must also comply with these requirements.

Q3 What is a compound feedingstuff?

A3 A compound feedingstuff is essentially a mixture of two or more feed materials -- that is, materials which can be used as ingredients in feeds or fed to animals singly. A non-exclusive list of feed materials is given in Part II of Schedule 2 to the Feeding Stuffs (England) Regulations 2005. Compound feed manufactured at a dedicated feed mill will often be supplied in pelleted form and may also contain authorised additives such as vitamins, binders, trace elements and preservatives.

Q4 Why is there a tolerance limit of +/-15% for each declared ingredient?

A4 This was part of the compromise agreement reached between the Council and the European Parliament during the negotiations on Directive 2002/2/EC. Earlier proposals for the ingredients to be declared according to their exact percentages, or for declaration in percentage bands (under 5%, 5-15%, etc.) had been rejected by one or other party to the negotiations.

Q5 Do these new requirements apply to compound feedingstuffs for pets?

A5 No. Compound feed for pets may continue to be labelled by category of ingredient or by individual ingredient, without the need to declare percentage weights.

Q6 Do the new labelling requirements apply to compound feedingstuffs for horses?

A6 The recitals to Directive 2002/2/EC refer to “stock farmers” and “compound feedingstuffs for production animals”, indicating that percentage declaration is intended to apply only to feed for food-producing animals (i.e., animals whose products enter the human food chain). As horses are not normally raised for meat

production in the UK, the manufacturers of compound feedingstuffs for horses still have the option to declare the ingredients by category rather than by percentage weight if they are satisfied that the horses consuming the feed will not at any stage go into the human food chain. Nevertheless, manufacturers may wish to consider listing all the ingredients by their specific names in the interests of providing purchasers with full information.

Q7 Why was the option to declare ingredients by category removed?

A7 In the wake of both BSE and a number of high-profile feed contamination incidents, it was considered by Member States and the European feed industry that there was a need to provide users of animal feed with more detailed ingredient information. Although a very large majority of compound feedingstuffs for livestock were already declaring ingredients in full rather than by category, it was thought appropriate to make this compulsory. The removal of the option to declare by category was not challenged by the UK feed industry, and such declarations have been prohibited since November 2003.

DETAIL

Q8 Does the requirement to declare by percentage weight apply to all ingredients of a compound feedingstuff?

A8 The requirement applies to all feed material ingredients. (See the definition in the Annex.) There are specific labelling rules for feed additives, which are laid down in EC Regulation 1831/2003 and in the authorisations granted under it for individual additives.

Q9 Do the new labelling requirements apply to complementary feeds?

A9 Yes. A complementary feed is a type of compound feedingstuff. Similarly, a complete feed is also a type of compound feedingstuff.

Q10 Does the requirement to declare percentages apply to certain products controlled by Directive 82/471?

A10 No. These products are not classed as feed materials and will therefore continue to be controlled by the labelling requirements of Schedule 6 to the Feeding Stuffs (England) Regulations 2005. This applies even when they have been incorporated in a compound feedingstuff.

Q11 What about premixtures of additives?

A11 The carriers of premixtures are classed as feed materials and when they are incorporated in compound feeds they need to be declared on the label by name of feed material and percentage weight. Labelling of the presence or level of additives in compound feedingstuffs is subject to separate labelling requirements, as specified in EC Regulation 1831/2003.

Q12 How will the tolerance limit for variations in percentage declarations apply in practice?

A12 The tolerance limit applies to the declared value of the ingredient. For example, if a particular ingredient is declared to constitute 30% of the feedingstuff, then the tolerance limit for that declaration would be 15% of 30% -- i.e., the percentage declared may range between 25.5% and 34.5% of the total weight of the compound feedingstuff. It does not mean that the declaration can range between 15% and 45%.

Q13 Is there a *de minimis* threshold below which it will not be necessary to declare percentages?

A13 Directive 2002/2/EC does not set any threshold below which ingredients need not be declared by their percentage weight, although it is recognised that in some cases it may be difficult to declare percentages for feed materials included at very low levels. Feed compounders and other feed business operators may find it helpful to discuss this question with their trade association and their local enforcement authority.

Q14 To how many decimal points must the percentages be declared? And does this apply to the tolerance limits as well?

A14 Directive 2002/2/EC refers only to percentages; it does not specify the number of decimal points. It may be acceptable for percentage declarations to be rounded up or down to the nearest whole number, but feed compounders and other feed business operators may find it helpful to discuss this question with their trade association and their local enforcement authority.

Q15 Should the percentage declaration always add up to 100% of the total weight of the compound feedingstuff?

A15 This might not always be possible, firstly because the quantities of some ingredients may be too low to measure, and secondly because the feed additive content of a compound feedingstuff is not subject to percentage declaration (see Q&A 11 above).

Q16 Should the percentage figure appear before or after the name of the ingredient?

A16 This is not specified by Directive 2002/2/EC. Feed manufacturers and others are therefore free to use either, subject to the need to ensure that the design and layout of the label makes clear the association between each ingredient and the percentage figure stated for it.

Q17 Will the existing requirement to declare analytical constituents (protein, ash, fibre, oil, etc.) be affected by the requirement to declare ingredients by percentage weight?

A17 No. The requirement to declare ingredients by percentage weight is in addition to the requirement to declare analytical constituents set out in Part II of Schedule 3 to the Feeding Stuffs (England) Regulations 2005. The protein, ash, fibre, oil, etc. content should therefore continue to be declared separately on the label, where required by the Regulations.

Q18 What about compound feedingstuffs incorporating products which themselves contain a number of ingredients?

A18 Feed manufacturers may sometimes buy in products which comprise a number of ingredients -- for example, other compound feeds, certain co-products from the food industry, and food products surplus to or unsuitable for human consumption. Accurate information on the percentage ingredients of such products may not always be available. However, it is expected that sufficient information would be given to feed manufacturers by those supplying the products and by feed manufacturers to their customers for percentage declarations to be made within the tolerances allowed. (See also Q&A 20 below.) Feed compounders and other feed business operators may find it helpful to discuss this question with their trade association and their local enforcement authority.

Q19 What should be the ingredient declaration for compound feedingstuffs which include a proprietary feed product which itself contains two or more ingredients?

A19 The Directive's requirement is to declare the feed material ingredients. Therefore, if a proprietary product which contains two or more feed materials is included in the finished compound feedingstuff, those feed materials should be included in the overall labelling declaration. The name of the proprietary product could be given as extra information of the kind permitted under paragraph 24 of Schedule 3, perhaps with the percentage breakdown of its ingredients.

Q20 What about reworked compound feedingstuffs -- that is, feed products from a previous production run which are recycled into the manufacture of succeeding batches of feed?

A20 A working assumption in such cases might be that the ingredients of the reworked feedingstuffs would be identical or very similar to those of the succeeding batches. It should therefore be possible to estimate the percentage of reworked product included in the succeeding batch and derive percentage declarations for the ingredients, although it is recognised that there are uncertainties inherent in this process. Feed compounders and other feed business operators may find it helpful to discuss this question with their trade association and their local enforcement authority.

Q21 Does percentage declaration apply to integrated producers who manufacture feed for their own farms?

A21 Only if the compound feed is "put into circulation".

Q22 Does percentage declaration apply to feed manufactured by one company and sold to a sister company which although legally separate is part of the same business group?

A22 Yes. They are separate trading entities and a transfer between them is a transfer to a third party. The feed would therefore be “put into circulation”.

ENFORCEMENT

Q23 Who will enforce the labelling requirements?

A23 As with other animal feedingstuffs legislation made under the Agriculture Act 1970 and the European Communities Act 1972, enforcement in England will be the responsibility of local authorities.

Q24 What analytical methods will be used by enforcement authorities?

A24 Directive 2002/2/EC does not prescribe any particular method by which the declared percentage ingredients of compound feedingstuffs can be verified, and we understand that in any case there is no current methodology which would permit the quantitative identification of the ingredients of a compound feed. Enforcement by local authorities is therefore most likely to be by checking the labelling declarations against the records which manufacturers are required by law to keep.

Q25 What about percentage declarations for products such as feed blocks, which have shelf-lives of 6 to 12 months and were still in manufacturers’ or merchants’ stores when the new labelling requirements came into force?

A25 It is recognised that the long shelf-life of some feed products such as blocks and licks could pose difficulties. We therefore suggest that local enforcement authorities and trade associations be contacted for advice on this point, as necessary.

Q26 Do the new requirements apply to bulk consignments as well as bagged feedingstuffs?

A26 Yes. The manner of packaging and delivery of compound feedingstuffs has no bearing on the requirement to declare ingredients by percentage weight.

DEFINITIONS

Complementary feedingstuff: a compound feeding stuff which has a high content of certain substances and which, by reason of its composition, is sufficient for a daily ration only if it is used in combination with other feeding stuffs.

Complete feedingstuff: a compound feeding stuff which, by reason of its composition, is sufficient to ensure a daily ration.

Compound feedingstuff: a mixture of feed materials, whether or not containing any additives, for oral feeding to pet animals or farmed creatures in the form of complementary feeding stuffs or complete feeding stuffs.

Feed additive: substances, micro-organisms or preparations, other than feed materials and premixtures, which are intentionally added to feed or water in order to perform, in particular, one or more of the following functions: (a) favourably affecting the characteristics of feed, (b) favourably affecting the characteristics of animal products, (c) favourably affecting the colour of ornamental fish and birds, (d) satisfying the nutritional needs of animals, (e) favourably affecting the environmental consequences of animal production, (f) favourably affecting animal production, performance or welfare, particularly by affecting the gastro-intestinal flora or digestibility of feedingstuffs, or (g) having a coccidiostatic or histomonostatic effect.

Feed material: any product of vegetable or animal origin, in its natural state, fresh or preserved; any product derived from such a product by industrial processing; or any organic or inorganic substance, (whether or not containing any additive) and for use in oral feeding to pet animals or farmed creatures, directly as such, or after processing, in the preparation of a compound feeding stuff or as a carrier of a premixture.

Feedingstuff: a product of vegetable or animal origin in its natural state, whether fresh or preserved; a product derived from the industrial processing of such a product; or an organic or inorganic substance, used singly or in a mixture, and whether or not containing additives, for oral feeding to pet animals or farmed creatures.

Premixture: a mixture of feed additives, or a mixture of one or more feed additives with feed materials or water used as carriers, not intended for direct feeding to animals.

Put into circulation: sell or otherwise transfer, have in possession with a view to selling or otherwise transferring, or offer for sale, in each case to a third party.