

AMENDMENTS IN BACK

HAWAII ADMINISTRATIVE RULES

TITLE 4

DEPARTMENT OF AGRICULTURE

SUBTITLE 4 DIVISION OF MARKETING AND CONSUMER SERVICES

CHAPTER 45

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Historical Note: Chapter 4-45 is based substantially upon "Regulation 5. Feed Regulation," of the Division of Marketing and Consumer Services, Department of Agriculture. (Eff 7/1/74; R 5/29/81)

SUBCHAPTER 1

GENERAL PROVISIONS

~~§4-45-1 Definitions. As used in this chapter:
"Board" means the board of agriculture.
"Department" means the department of agriculture, State of Hawaii.
"Dried pineapple pulp" means the dried peel, butts, tops, residue of inside portions of the fruit, and leaves of pineapple; and is an official name.
"Dried poultry litter (DPL)" means a processed poultry waste product composed of a processed combination of feces from poultry together with litter that was present in the floor production of poultry, which has been thermally dehydrated to a moisture content not in excess of twelve per cent; and is an official name.
"Dried poultry waste (DPW)" means a processed poultry waste product composed of feces from commercial poultry, which has been thermally dehydrated to a moisture content not in excess of twelve per cent; and is an official name.
"Dried sugar cane bagasse" means the dried portions of crushed sugar cane stalks from which the juice has been pressed out; and is an official name.
"Federal Food and Drug Administration" means the Food and Drug Administration of the United States Department of Health and Human Services.
"Final user" means a ranch, feed lot, consumer, or agricultural cooperative that purchases feed for its own use.
"Inert mineral matter" means mineral matter that does not contribute dietary factors.
"Lot" means a collection of units of a product from which an official sample is drawn, inspected, and analyzed to determine compliance with label guarantees; provided that for the purposes of determining~~

assessment for variation from guaranteed analysis and mislabeling, as provided in section 4-45-18(d), a lot shall not exceed twenty-five tons.

"Materially damaged feed" means any feed which has been damaged by any chemical substance, smoke, insect, water, or other foreign material but is still of feedable quality.

"Official name" means the name of a feed ingredient which is defined in the Official Publication of the Association of American Feed Control Officials, Incorporated, [1983, pages 91 to 160,] 1985, pages 93 to 175, which is made part of this chapter, and those names defined in this section.

"Official sample" means any sample of feed taken by the department or its agent and designated as official by the department; provided that samples taken in a restricted manner shall not be considered as official samples.

"Pineapple hay" means the coarse chopped or coarse cut vegetative portion, consisting chiefly of leaves, of the pineapple plant which has been artificially or otherwise dried; and is an official name. It shall be reasonably free from other crop plants, weeds, soil, or other foreign material.

"Processed poultry waste product" means a product composed of excreta, with or without bedding materials and animal drugs, collected from poultry and artificially dehydrated, dry stacked, ensiled, oxidized, chemically treated, microbiologically digested, chemically or physically fractionated, or treated by other processes which will enable the product to comply with the standards in this chapter; and is an official name. Processed poultry waste products shall be considered commercial simple feeds.

"Restricted sample" means a sample that has been drawn from a lot in which every portion is not accessible for sampling.

"Selling price" means the most recent published list price before discount, F.O.B. plant for local manufactured products and the most recent list price landed Hawaii dock for imported products.

"Sliding scale method" means representing a value by a range or by two values separated by a hyphen.

"Sugar cane hay" means the coarse chopped or coarse cut reclaimed portions of unburnt leaves, immature top portions of the sugar cane stalk, and other small quantities of sugar cane stalks which have been artificially or otherwise dried; and is an

~~official name. There shall be no admixture of burnt leaves except in such amount as might unavoidably occur in good factory practice. It shall be reasonably free from other crop plants, weeds, soil, or other foreign material. [Eff 5/29/81; am and comp 1/16/84; am and comp MAR 24 1986] (Auth: HRS §144-10) (Imp: HRS §144-10)~~

§4-45-2 Brand and product names. (a) If the brand or product name indicates the feed is made for a specific use, the character of the feed must conform to this use.

(b) Commercial, registered brand, or trade names are not permitted in guaranteed or ingredient listings.

(c) A brand or product name of a commercial mixed feed shall not be derived from one or more ingredients of the mixture to the exclusion of other ingredients, unless all ingredients are included in the name; except as otherwise provided in subsections (d) and (e), section 4-45-12, or chapter 144, Hawaii Revised Statutes.

(d) The word "vitamin" or a contraction of any word suggesting vitamin can be used only in the brand name of a feed which is represented to be a vitamin supplement and is labeled with the minimum content of each vitamin declared, as specified in section 4-45-3(d).

(e) The term "mineralized" shall not be used in the brand name of a feed, except for the term "trace mineralized salt". When used, the product must contain significant amounts of trace minerals which are recognized as essential for animal nutrition.

(f) When the brand name carries an unqualified percentage value, the value shall be understood to signify protein content. When a percentage value in the brand name is intended to represent the amount of any other component, the value shall be followed by a proper description. [Eff 5/29/81; am and comp 1/16/84; am and comp MAR 24 1986] (Auth: HRS §144-10) (Imp: HRS §144-4)

§4-45-3 Expression of guarantees. (a) The sliding-scale method of expressing guarantees is prohibited, except as provided by chapter 144, Hawaii Revised Statutes, or this chapter.

~~(b) The guaranteed analysis of commercial feed~~

shall list:

- (1) The minimum percentage of crude protein;
- (2) The minimum percentage of crude fat;
- (3) The maximum percentage of crude fiber; and
- (4) The maximum percentage of ash;

except that products sold solely as mineral and vitamin supplements and guaranteed as specified in subsections (d) and (e) need not show guarantees for protein, fat, fiber, and ash, but must be labeled with adequate feeding or mixing directions.

(c) Drugs in commercial, custom-mixed, and toll-milled feeds shall be guaranteed in terms of percentage by weight, except that when antibiotics are present at less than two thousand grams per ton of feed, the antibiotics shall be guaranteed in terms of grams per ton of feed, or when present at two thousand grams per ton or more, the antibiotics shall be guaranteed in terms of grams per pound of feed.

(d) Vitamins, when quantitatively guaranteed, shall be expressed in milligrams per pound of feed, except that vitamin A, other than precursors of vitamin A, shall be stated in International or USP units per pound; vitamin D, in products offered for poultry feeding, shall be stated in International Chick Units per pound; vitamin D for other uses shall be stated in International or USP units per pound; and vitamin E shall be stated in International or USP units per pound of feed.

(e) Commercial feeds containing six and one-half per cent or more mineral element shall include in the guaranteed analysis the minimum and maximum percentages of calcium (Ca) and of salt (NaCl), and the minimum percentage of phosphorus (P) and of iodine (I), if added. Minerals except salt (NaCl), when quantitatively guaranteed, shall be stated in terms of per cent of the element.

(f) Other substances or elements may be guaranteed by permission of the department. [Eff 5/29/81; comp 1/16/84; comp MAR 24 1986] (Auth: HRS §144-10) (Imp: HRS §144-4)

~~§4-45-4 Registration. (a) Registration of commercial feeds shall be the responsibility of the local manufacturer, importer, or distributor.~~

~~(b) Application for registration shall be submitted in duplicate on forms furnished by the department and shall be accompanied by two labels for~~

each feed to be registered.

(c) A registration fee of \$10 shall be paid for each commercial feed registered, except when subject to the exemption under subsection (h).

(d) Registration shall become effective on the date the certificate of registration is issued and shall expire on December 31 of that year.

(e) If the registrant desires to continue the registration in effect for another year, the registrant shall submit an application for re-registration and pay \$10 for each commercial feed to be re-registered. Reregistration shall denote that the product was registered during the previous year, and that no changes have been made to the format or contents of the label.

(f) When payments for fees or penalties covered by this chapter are by check, a service fee of \$7.50 shall be assessed for each check that is not honored due to insufficient funds.

(g) Notice shall be given to the department of any change in the format or contents of the label for any feed registered with the department. The registrant shall describe the changes desired and shall submit an application for supplemental registration with two copies of the revised label for approval. Before a revised label is approved by the department, the product shall not be marketed with the revised label. After the effective date of the change in labeling, the product shall be marketed only under the revised label, except that a reasonable time may be permitted by the department to dispose of or to utilize the old labels.

(h) Any trial shipment of a commercial feed in lot size not exceeding two hundred and fifty pounds may be exempt from the registration fee requirement in subsection (c) on a one time basis. Any subsequent shipment, regardless of lot size, shall be subject to the registration fee. Two labels shall be submitted to the department for each feed distributed on trial basis. When requested, the distributor shall provide proof that any unsold feed in storage is part of the initial trial shipment. [Eff 5/29/81; am and comp 1/16/84; am and comp MAR 2, 1986] (Auth: HRS §144-10) (Imp: HRS §144-3)

S4-45-5 Tonnage reports. (a) An accurate quarterly tonnage report shall be submitted to the

department by the following:

- (1) Local feed manufacturers and distributors who sell feeds to feed stores and final users;
 - (2) Feed stores that import feeds for resale to final users; and
 - (3) Final users who import feeds for their own use.
- (b) The tonnage report shall show:
- (1) For registered commercial feeds, each registered brand or product name and registration number separately and the respective tonnage;
 - (2) For feeds not required to be registered, the name or identity of each feed and the tonnage; and
 - (3) The applicable inspection fees required in section 4-45-6.
- (c) Tonnage may be reported to the nearest ton.
- (d) The department, after notice and opportunity for hearing, may cancel the registration of any commercial feed of any distributor or importer who fails to file a tonnage report within the time required by section 144-5(b)(1), Hawaii Revised Statutes. [Eff 5/29/81; am and comp 1/16/84; am and comp MAR 24 1986] (Auth: HRS §144-10) (Imp: HRS §144-5)

§4-45-6 Inspection fees. (a) An inspection fee of 40 cents per ton of feed shall be paid to the department; except that an inspection fee of 20 cents per ton shall be paid for the following:

- (1) Feeds included in section 144-2(6)(A), (B), (D), and (E), Hawaii Revised Statutes; and
 - (2) Toll-milled feeds.
- (b) Local manufacturers, distributors, and importers of feeds shall be responsible for the payment of inspection fees.
- (c) Where the local distributor or importer fails to pay the inspection fee on the basis that payment has been made by another local party, the distributor or importer shall indicate the name and address of the other party in the tonnage report.
- (d) The department, after notice and opportunity for hearing, may cancel the registration of any commercial feed of any distributor or importer who fails or neglects to make payment of inspection fees within the time provided in section 144-5(b)(1), Hawaii Revised Statutes.

~~(e) Inspection fees which have not been remitted to the department within thirty days following the due date specified in section 144-5(b)(1), Hawaii Revised Statutes, shall have a penalty fee of five per cent added to the amount due when payment is finally made.~~

(f) Inspection fees totalling less than one dollar for any quarterly period specified in section 144-5(b)(1), Hawaii Revised Statutes, may be waived.
[Eff 5/29/81; am and comp 1/16/84; am and comp

MAR 24 1986] (Auth: HRS §144-10) (Imp: HRS §144-5)

§4-45-7 Labeling. (a) The labeling information required by section 144-4, Hawaii Revised Statutes, shall appear in its entirety on one side of the label or container. The information shall not be subordinated or obscured by other statements or designs.

(b) No advertising matter of any kind shall be printed on the label.

(c) Labeling of pre-packaged commercial feeds shall be as follows:

(1) When pre-packaged commercial feed of twenty-five pounds or more is distributed, it shall be accompanied by a legible label bearing the information required by section 144-4, Hawaii Revised Statutes; or

(2) All pre-packaged commercial feed of less than twenty-five pounds shall show the brand or product name and net weight. The information shall either be stenciled or printed on the package in bold type letters of not less than three-eighths inch in height. The guaranteed analysis, the ingredient statement, and the name and principal address of the manufacturer or distributor need not be shown on a pre-packaged container of less than twenty-five pounds, provided that the label from the original container bearing the information required by section 144-4, Hawaii Revised Statutes, is conspicuously displayed in front of the pre-packaged container in full view of the prospective purchaser.

[Eff 5/29/81; am and comp 1/16/84; am and comp MAR 24 1986] (Auth: HRS §144-10)
(Imp: HRS §144-4)

§4-45-8 Ingredient statement of a label. (a)

Each ingredient shall be specifically named in the ingredient statement except that collective terms may be used in lieu of ingredients listed under the defined group, when two or more of the ingredients listed for the collective name are present.

(b) The name of each ingredient shall be one defined as an official name, the common or usual name, or one approved by the department.

(c) Collective terms for grouping of ingredients shall be those defined as official names and may be used in lieu of individual ingredients; provided that:

- (1) When the collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label;
- (2) The collective terms shall be used only in the ingredient statement;
- (3) The registrant, at time of registration, shall provide the department with an actual list of individual ingredients within the defined group that are used or have been used in manufacturing the feed;
- (4) The registrant shall, upon request, provide the feed purchaser and the department with a written list of ingredients in their order of predominance by weight; and
- (5) Collective terms are not designed to imply equivalent nutritional value and refer only to a general classification of ingredient origin.

(d) The ingredients of mixed feeds shall be listed on the label substantially in the order of predominance by weight.

(e) The term "dehydrated" may precede the name of any product that has been artificially dried.

(f) No reference to quality or grade of an ingredient shall appear in the ingredient statement.

(g) The names of all ingredients in the ingredient statement shall be shown in letters of the same size.

(h) A single ingredient product, with a brand or product name which is an official name, is not required to have an ingredient statement. [Eff 5/29/81; comp 1/16/84, comp MAR 24 1986] (Auth: HRS §144-10)
(Imp: HRS §144-4)

§4-45-9 Minerals. (a) When the word "iodized" is used in connection with a feed ingredient, the ingredient shall not contain less than 0.007 per cent iodine, uniformly distributed.

(b) Mineral phosphatic materials for feeding purposes shall be labeled with a guarantee for the minimum percentages of calcium and phosphorus, and the maximum percentage of fluorine.

(c) The fluorine content of any mineral or mineral mixture to be used directly for the feeding of domestic animals shall not exceed 0.30 per cent for cattle; 0.35 per cent for sheep; 0.45 per cent for swine; and 0.60 per cent for poultry.

(d) Soft phosphate with colloidal clay, rock phosphates, or other fluorine-bearing ingredients may be used only in such amounts that will not raise the fluorine concentration of the total grain ration above the following amounts: 0.009 per cent for cattle; 0.01 per cent for sheep; 0.014 per cent for swine; and 0.035 per cent for poultry. [Eff 5/29/81; comp 1/16/84; comp MAR 24 1986]
] (Auth: HRS §144-10) (Imp: HRS §144-4)

§4-45-10 Non-protein nitrogen. (a) Urea and other non-protein nitrogen products with official names are acceptable ingredients in commercial feeds for ruminant animals, but shall not be used in commercial feeds for other animals and birds as sources of equivalent crude protein.

(b) The maximum percentage of equivalent crude protein from added non-protein nitrogen shall appear immediately below the guarantee of total crude protein.

(c) The official name of the substance supplying the non-protein nitrogen shall appear in the ingredient list.

(d) If the commercial feed contains more than eight and three-fourths per cent of equivalent crude protein from the added non-protein nitrogen, or if the equivalent crude protein from the added non-protein nitrogen exceeds one-third of the total crude protein, the label shall bear:

- (1) A statement for proper usage; and
- (2) The following statement in type of such conspicuousness as to render it likely to be read and understood under customary conditions of purchase and use, "WARNING: This feed shall be used only in accordance with directions furnished on the label."

(e) In the case of medicated feed labels, where adequate feeding directions or warning statements appear on the label, the warning statement in subsection (d)(2) shall not be required. [Eff 5/29/81; am and comp 1/16/84; comp ^{MAR 24 1986}]
 (Auth: HRS §144-10) (Imp: HRS §144-6)

§4-45-11 Artificial color. (a) No artificial color may be used in feeds unless the color has been proven to be harmless to animals and meets the provisions of the Code of Federal Regulations specified in section 4-45-26(2), (3), (4), and (5).

(b) No material shall be used to enhance the natural color of a feed or feed ingredient whereby inferiority would be concealed. [Eff 5/29/81; comp 1/16/84; am and comp ^{MAR 24 1986}] (Auth: HRS §144-10) (Imp: HRS §144-6)

§4-45-12 Drugs, food additives, and other ingredients. Before registration is accepted for a commercial feed which contains drugs, food additives, or other ingredients potentially harmful to animals, the distributor may be required to:

- (1) Submit evidence to show the safety of the feed when used according to the directions furnished with the feed;
- (2) Furnish a written statement that adequate written or printed warnings and feeding directions shall accompany each delivery of the feed; and
- (3) State the percentages of the drugs, food additives, or other ingredients in a prominent place on the label of the feed. [Eff 5/29/81; comp 1/16/84; comp ^{MAR 24 1986}]
 (Auth: HRS §144-10) (Imp: HRS §§144-4 and 144-6)

§4-45-13 Net weight. (a) Each package of feed shall show the net weight of the feed in the package, either stenciled or printed on the bag or on a tag attached to the bag.

(b) The net weight of feed distributed in bulk shall be shown on the invoice or tag which is to accompany delivery.

(c) All statements of weight shall be expressed

in terms of net avoirdupois weight. [Eff 5/29/81;
comp 1/16/84; am and comp MAR 24 1986] (Auth: HRS
§144-10) (Imp: HRS §144-4)

§4-45-14 Materially damaged feed. (a) No person shall distribute any materially damaged feed unless the containers are marked in bold type letters of not less than two inches in height and not less than one inch in width with the word "DAMAGED" on the side of the container on which the brand name appears, or if the brand name does not appear on the container, on both sides of the container.

(b) Feed identified with the word "DAMAGED" may be distributed directly to final users only. [Eff 5/29/81; comp 1/16/84; comp MAR 24 1986] (Auth: HRS §144-10) (Imp: HRS §144-10)

§4-45-15 Metal fasteners for feed bags. It shall be unlawful for any person to distribute any commercial simple feed, commercial mixed feed, or custom-mixed feed, or prepare for delivery any toll-milled feed, in any bag to which any label has been attached by a hook, snap, or other fastener or device made of metal. [Eff 5/29/81; comp 1/16/84; comp MAR 24 1986] (Auth: HRS §144-10) (Imp: HRS §144-10)

§4-45-16 Certification of feeds. (a) Any financially interested party may request an inspection, certification, or analysis of any commercial feed by the department.

~~(b) The fee for any inspection, certification, or analysis shall be \$17.50 per hour or any fraction thereof, for time required to perform the service. Additional charges may be made for transportation, travel time, per diem, travel expenses, and other actual expenses incurred by the department when an inspection is performed in an area not conveniently located. No charge shall be made for travel time when an inspection point is not more than ten minutes of travel time or seven miles travel distance, whichever is greater, from the office of inspection.~~

(c) Nothing in this chapter shall be construed as requiring the department or any of its agents to render the services authorized under subsection (a).

[Eff 5/29/81; am and comp 1/16/84; am and
 comp ^{MAR 24 1986}] (Auth: HRS §144-10) (Imp: HRS
 §144-10)

§4-45-17 Provisions for enforcement, penalties, and prosecution. (a) Any authorized officer of the department may enter any public or private premises, including any vehicle of transport, during business hours, in order to gain access to feeds and to records relating to the distribution and mixing of these feeds at any time and place to the extent necessary to determine whether such feeds and records are in compliance with the provisions of chapter 144, Hawaii Revised Statutes, and this chapter.

(b) All costs and expenses incurred by the department in any proceedings associated with the condemnation, seizure, and confiscation of any feed shall be paid by the claimant.

(c) Any person who violates this chapter shall be subject to the penalties in section 144-12, Hawaii Revised Statutes.

(d) The appropriate proceedings to enjoin the continuance of any act or omission in violation of the provisions of this chapter may be brought.

(e) Any person who violates this chapter may be administratively assessed, after notice and opportunity for hearing, a penalty not to exceed \$1,000 for each violation. Each day or instance of violation shall constitute a separate offense. Any action taken to impose the penalty provided for in this subsection shall be considered an administrative action. This subsection shall not apply to violations covered under section 4-45-18(c).

(f) The penalties and remedies provided in this section with respect to any violation of this chapter shall not be deemed exclusive of each other or of other penalties provided or allowed by law with respect to any such violation. [Eff 5/29/81; am and comp 1/16/84; am and comp ^{MAR 24 1986}] (Auth: HRS §144-10) (Imp: HRS §§144-9, 144-10, 144-11, and 144-12)

~~§4-45-18 Sampling, analysis, and penalties. (a) Unless the board designates otherwise in specific cases, the methods of sampling and analysis shall be as set forth in "Official Methods of Analysis of the Association of Official Analytical Chemists, 1985".~~

(b) The results of all analyses of official samples shall be forwarded by the department to the person who registered the commercial feed and to the owner of the feed from which the sample had been drawn.

(c) The assessments for variance from guaranteed analysis and mislabeling shall be as follows:

(1) If the analysis of a sample shows a deviation from permitted analytical variations as provided in "Table I. Tolerances To Be Applied to Sample Results From Bulk Lots 8/1/80" or "Table II. Tolerances To Be Applied To Sample Results From Bagged Lots 8/1/80" located at the end of this chapter, the registrant shall be penalized as follows:

(A) Penalty assessments for deficiencies in crude protein shall be based on the relative percentage of deviation from guarantee which shall be calculated by subtracting the assayed percentage from the guaranteed percentage and dividing the result by the guaranteed percentage. Penalty assessments for class A violations shall be equal to the selling price of the lot times the relative percentage of deviation from guarantee. Penalty assessments for class B violations shall be equal to twice the selling price of the lot times the relative percentage of deviation from guarantee;

(B) Penalty assessments for deficiencies in crude fat shall be five per cent of the selling price of the lot for class A violations and ten per cent for class B violations; and

(C) Penalty assessments for excessiveness in crude fiber and ash shall be five per cent of the selling price of the lot for class A violations and ten per cent for class B violations; and

(2) If the analysis of a sample shows a deviation from permitted analytical variations as provided in "Recommended Permitted Analytical Variations (PAV) Based on AAFCO Check Sample Program" on pages 88 and 89, "Feed Control Drug Administration's Assay Control Limitations For Animal Drugs In Medicated Feeds" on pages 194 and 195, and "Food

Control Drug Administration's Assay Control Limitations For Animal Drugs In Medicated Premixes" on pages 196 and 197 of The Official Publication of the Association of American Feed Control Officials, Incorporated, 1985, which is made a part of this chapter, the registrant shall be penalized as follows:

- (A) Penalty assessments for either excessiveness or deficiencies in mineral content shall be ten per cent of the selling price of the lot;
 - (B) Penalty assessments for excessiveness of crude protein equivalent from non-protein nitrogen shall be ten per cent of the selling price of the lot; and
 - (C) Penalty assessments for excessiveness or deficiencies in animal drugs or other analysis shall be ten per cent of the selling price of the lot.
- (d) Penalties for multiple deficiencies within a sample shall be applied separately; provided that in no case shall the penalty exceed the selling price of the lot.
- (e) The minimum penalty under this section shall be \$25 or the selling price of the lot whichever is smaller.
- (f) All assessments levied by the department under this section shall within sixty days from date of notice to the registrant, importer, or distributor, be paid to the department to be deposited to the credit of the state general fund. Failure to pay the assessment shall be grounds for cancellation of all registrations of the registrant. It is the duty of the department to institute appropriate proceedings to recover the assessments.
- (g) Penalty assessments under this section shall not apply to commercial simple feeds, commercial feeds manufactured or processed by a final user for its own account, or restricted samples.
- (h) If the microscopic analysis reveals that any commercial mixed feed is mislabeled, the department may assess a penalty of ten per cent of the selling price of the lot against the registrant or distributor.

[Eff 5/29/81; am and comp 1/16/84; am and comp
MAR 21 1996] (Auth: HRS §144-10) (Imp: HRS
§§144-9 and 144-10)

SUBCHAPTER 2

PROCESSED POULTRY WASTE PRODUCTS

~~§4-45-19 Registration. In addition to the requirements of section 4-45-4, applications for registration of processed poultry waste products shall be accompanied by the following:~~

- ~~(1) A detailed description, on a form provided by the department, of:
 - ~~(A) The facilities, equipment, and methods to be used in the processing, manufacturing, and testing of the processed poultry waste product;~~
 - ~~(B) The sampling schedule;~~
 - ~~(C) A full description of all tests made; and~~
 - ~~(D) The results of those tests, specified in section 4-45-22(c), purporting to show the processed poultry waste product meets the standards of this chapter; and~~~~
- ~~(2) A sealed package of the processed poultry waste product, containing at least one pound of the product, together with the applicant's affidavit that the sample is representative of the processed poultry waste product offered for registration. [Eff 5/29/81; am and comp 1/16/84; comp MAR 24 1986]
(Auth: HRS §144-10) (Imp: §144-3)~~

~~§4-45-20 Registration refused or canceled. The registration of a processed poultry waste product shall be refused or may be subject to cancellation if:~~

- ~~(1) The applicant or the processed poultry waste product is determined to be in violation of chapter 144, Hawaii Revised Statutes, or this chapter;~~
- ~~(2) The processed poultry waste product contains any pathogenic organism, drug residue, pesticide residue, harmful parasite, or other toxic or deleterious substance which:
 - ~~(A) Exceed levels permitted by this chapter;~~
 - ~~(B) May be harmful to animals; or~~
 - ~~(C) May result in harmful or unlawful residue levels in the tissue or by-products of animals;~~~~
- ~~(3) The processed poultry waste product does not~~

meet the quality standards of section 4-45-21;

- (4) The processed poultry waste product is not labeled in compliance with section 4-45-24, or
- (5) The applicant or registrant fails to perform the testing as specified in section 4-45-22, or to accurately maintain and display to officials of the department, upon demand, the records required in section 4-45-23. [Eff 5/29/81; am and comp 1/16/84; am and comp MAR 24 1986] (Auth: HRS §144-10) (Imp: HRS §§144-3 and 144-6)

54-45-21 Quality standards. (a) No processed poultry waste product shall contain:

- (1) Any extraneous material such as, but not limited to, metal, glass, wire, or nails;
- (2) Any heavy metal, provided that the following tolerances are permitted: arsenic, three and one-half parts-per-million; lead, seven parts-per-million; and mercury, one-half part-per-million;
- (3) Copper in excess of two hundred fifty parts-per-million;
- (4) Aflatoxins in excess of twenty parts-per-billion; or
- (5) Pesticide residue or drug residue in excess of the provisions in subchapter 3.

(b) Dried poultry waste shall contain:

- (1) A minimum of eighteen per cent crude protein;
- (2) A maximum of fifteen per cent crude fiber;
- (3) A maximum of thirty-five per cent ash;
- (4) A maximum of one per cent feathers; and
- (5) A maximum of twelve per cent moisture.

(c) Dried poultry litter shall contain:

- (1) A minimum of eighteen per cent crude protein;
- (2) A maximum of thirty per cent crude fiber;
- (3) A maximum of thirty per cent ash;
- (4) A maximum of five per cent feathers; and
- (5) A maximum of twelve per cent moisture.

(d) Any product labeled as or containing

processed poultry waste products shall not exceed twelve per cent moisture to aid in maintaining stable microbiological quality. [Eff 5/29/81; am and comp 1/16/84; am and comp MAR 24 1986] (Auth: HRS §144-10) (Imp: HRS §§144-6 and 144-10)

§4-45-22 Testing. (a) Any person seeking or receiving registration of any processed poultry waste product shall test that product, at a laboratory approved by the department, utilizing methods of sampling and analysis as set forth in "Official Methods of Analysis of the Association of Official Analytical Chemists, 1985" or other methods designated by the board in specific cases.

(b) The sample shall be representative and of sufficient size so as to provide meaningful and statistically reliable data to carry out the purpose of the sampling and analysis. The sample shall be drawn by the testing laboratory, a party approved by the department, or the department. The department may provide the sampling service during normal business hours, to the extent that inspection personnel is available and a twenty-four hour minimum advanced notice is given. The charges for this service shall be as prescribed in section 4-45-16.

(c) Testing of processed poultry waste products shall consist of analyses to show that the product meets the quality standards in section 4-45-21 and to test for potential hazardous substances as follows:

- (1) Drugs suspected or known to be used in the feed or as a therapeutic treatment of poultry;
- (2) Pesticides used on the poultry, facilities, and wastes for pest control;
- (3) Pathogenic organisms to include Salmonella and E. Coli;
- (4) The heavy metals arsenic, cadmium, copper, lead, mercury, selenium, bismuth, and antimony;
- (5) Parasitic larva or ova; and
- (6) Aflatoxins.

(d) Initial testing, prior to registration and sale of the processed poultry waste product, shall be conducted on three sequential production runs to establish that the processed poultry waste product is consistently within the specified limitations of sections 4-45-21 and 4-45-22(c).

(e) Following the initial sequential testing, periodic analyses shall be conducted on production runs not less than once each calendar quarter. However:

- (1) Less frequent testing may be allowed by written permission from the department when the analytical results show continued uniformity and a consistent margin of

- compliance; or
- (2) More frequent tests may be required by written notice from the department when the results of testing under this section or under section 4-45-18 show a wide range, or show levels close to the established quality standards in sections 4-45-21 and 4-45-22(c).
- (f) Sequential testing, required by subsection (d), shall again be required when the periodic analyses required by subsection (e), or other information available to the manufacturer of the processed poultry waste product, indicates that:
- (1) The processed poultry waste product is not within the limitations of section 4-45-21 or 4-45-22(c);
 - (2) Changes are made in the manufacturing process;
 - (3) New or expanded sources of the raw ingredients are used; or
 - (4) Changes have occurred in the drugs or pesticides used by the suppliers of the raw ingredients.
- (g) Any processed poultry waste product that does not meet quality standards for the product specified in sections 4-45-21 and 4-45-22(c) shall be further processed until standards are met, diverted to non-feed uses, or destroyed. [Eff 5/29/81; am and comp 1/16/84; am and comp MAR 24 1986] (Auth: HRS §144-10) (Imp: HRS §§144-6, 144-8, and 144-9)

§4-45-23 Records. (a) Any person seeking or receiving registration of any processed poultry waste product shall keep for a period of two years, accurate records of:

- (1) All sources of raw materials and date acquired, including information on drug and pesticide usage;
 - (2) All production output, including a code or other method to identify the date of production and the lot;
 - (3) All sales and distribution, including the name and address of the purchaser or to whom distributed, date, quantity, and production code; and
 - (4) The sampling and assay records of the testing required by section 4-45-22.
- (b) Records shall be made available to officials

of the department during normal business hours for purposes of enforcing this chapter. A copy of these records shall be made available to the department for its files on twenty-four hour notice. [Eff 5/29/81; am and comp 1/16/84; comp MAR 24 1986] (Auth: HRS §144-10) (Imp: HRS §§144-5, 144-6, and 144-9)

§4-45-24 Labeling requirements. (a) The label, invoice, or delivery slip accompanying shipments of processed poultry waste products or commercial mixed feeds containing processed poultry waste products shall contain all information required by subchapter 1, and in addition shall include the following information, in percentages, in the list of guarantees:

- (1) The maximum moisture content following the ash guarantee; and
- (2) The maximum lignin, following the moisture guarantee, if the product is dried poultry litter and contains wood-based bedding materials.

(b) The following special warnings shall be required on the label, invoice, or delivery slip of processed poultry waste products, in bold face type at least one-half as large as any other type appearing on the label:

- (1) If the product contains drug residues, then the label shall contain the following statement, "WARNING: THIS PRODUCT CONTAINS DRUG RESIDUES. DO NOT USE WITHIN 30 DAYS OF SLAUGHTER AND DO NOT USE 30 DAYS PRIOR TO OR DURING THE FOOD PRODUCTION PERIOD OF DAIRY ANIMALS AND LAYING HENS."; or
- (2) If the product contains levels of copper of twenty-five parts per million or greater, a maximum guarantee of copper and the following statement, "WARNING: CONTAINS HIGH LEVELS OF COPPER, DO NOT FEED TO SHEEP."

(c) The label, invoice, or delivery slip of a commercial mixed feed containing processed poultry waste product shall state, in the ingredient statement, the type of processed poultry waste product and the maximum percentage contained therein. [Eff 5/29/81; comp 1/16/84; comp MAR 24 1986] (Auth: HRS §144-10) (Imp: HRS §144-4)

§4-45-25 Restrictions. (a) This subchapter

shall apply to processed poultry waste products in intrastate commerce only.

(b) Processed poultry waste products shall not be used in feeds for lactating dairy animals or laying hens. [Eff 5/29/81; am and comp 1/16/84; comp MAR 24 1985] (Auth: HRS §144-10) (Imp: HRS §§144-6 and 144-10)

SUBCHAPTER 3

ADULTERATION

§4-45-26 Tolerances. (a) The following provisions of the Code of Federal Regulations, revised as of April 1, 1985, unless otherwise noted below, as they apply to feed, are adopted for use by the department in enforcing Chapter 144, Hawaii Revised Statutes, and this chapter:

- (1) 40 CFR, Part 180, entitled "Tolerances and Exemptions from Tolerances for Pesticide Chemicals In or On Raw Agricultural Commodities", revised as of July 1, 1985;
- (2) 21 CFR, Part 70, entitled "Color Additives";
- (3) 21 CFR, Part 73, entitled "Listing of Color Additives Exempt from Certification";
- (4) 21 CFR, Part 81, entitled "General Specifications and General Restrictions for Provisional Color Additives for Use in Foods, Drugs, and Cosmetics";
- (5) 21 CFR, Part 82, entitled "Listing of Certified Provisionally Listed Colors and Specifications";
- (6) 21 CFR, Part 193, entitled "Tolerances for Pesticides in Food Administered by the Environmental Protection Agency";
- (7) 21 CFR, Part 225, entitled "Current Good Manufacturing Practices for Medicated Feeds";
- (8) 21 CFR, Part 226, entitled "Current Good Manufacturing Practices for Medicated Premixes";
- (9) 21 CFR, Part 500, entitled "General";
- (10) 21 CFR, Part 501, entitled "Animal Food Labeling";
- (11) 21 CFR, Part 502, entitled "Common or Usual Names for Nonstandardized Animal Foods";
- (12) 21 CFR, Part 509, entitled "Unavoidable Contaminants in Animal Food and Food

- Packaging Material";
- (13) 21 CFR, Part 510, entitled "New Animal Drugs";
- (14) 21 CFR, Part 556, entitled "Tolerances for Residues of New Animal Drugs in Food";
- (15) 21 CFR, Part 558, entitled "New Animal Drugs for Use in Animal Feeds";
- (16) 21 CFR, Part 561, entitled "Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency";
- (17) 21 CFR, Part 564, entitled "Definitions and Standards for Animal Food";
- (18) 21 CFR, Part 570, entitled "Food Additives";
- (19) 21 CFR, Part 573, entitled "Food Additives Permitted in Feed and Drinking Water of Animals";
- (20) 21 CFR, Part 582, entitled "Substances Generally Recognized as Safe";
- (21) 21 CFR, Part 584, entitled "Food Substances Affirmed as Generally Recognized as Safe in Feed and Drinking Water of Animals"; and
- (22) 21 CFR, Part 589, entitled "Substances Prohibited from Use in Animal Food or Feed".

(b) The following compliance policy guides issued by the Federal Food and Drug Administration, as they apply to feed, are adopted for use by the department in enforcing Chapter 144, Hawaii Revised Statutes, and this chapter:

- (1) CPG 7126.01, dated 10/01/80, relating to tracers in animal feed;
- (2) CPG 7126.02, dated 3/01/82, relating to gentian violet in animal feed;
- (3) CPG 7126.05, dated 11/01/81, relating to diversion (after heat treatment) of rodent, roach, or bird contaminated feed for animal use;
- (4) CPG 7126.06, dated 10/01/80, relating to state analysis of animal feed for protein, fat, and fiber content;
- (5) CPG 7126.07, dated 10/01/80, relating to salmonella contamination of animal feed and animal feed ingredients;
- (6) CPG 7126.10, dated 10/01/80, relating to moisture damaged grain;
- (7) CPG 7126.11, dated 10/01/80, relating to the status of vitamins and minerals in animal feed and intermediate feed premixes;
- (8) CPG 7126.13, dated 10/01/80, relating to

- animal by-products for feeds -- salmonella contamination;
- (9) CPG 7126.15, dated 3/01/82, relating to crotalaria seeds in grains and feeds;
 - (10) CPG 7126.16, dated 10/01/80, relating to refusal of formula information during inspection of feed mills manufacturing FD-1800 feeds;
 - (11) CPG 7126.19, dated 10/01/80, relating to medicated feed concentrates and supplements not requiring inventory under GMPS;
 - (12) CPG 7126.20, dated 11/01/81, relating to diversion of adulterated human or animal food to acceptable animal feed use;
 - (13) CPG 7126.21, dated 10/01/80, relating to silage ingredients;
 - (14) CPG 7126.24, dated 10/01/80, relating to rendered animal feed ingredients;
 - (15) CPG 7126.25, dated 10/01/80, relating to ammoniated cottonseed meal -- interpretation of 21 CFR 573.140;
 - (16) CPG 7126.26, dated 10/01/80, relating to checklist labeling of custom mixed medicated feeds;
 - (17) CPG 7126.27, dated 7/1/81, relating to pesticide residues in animal feeds and feed ingredients;
 - (18) CPG 7126.28, dated 10/01/80, relating to use of drug-contaminated products in animal feed;
 - (19) CPG 7126.29, dated 10/01/80, relating to unsafe contamination of animal feed from drug carryover;
 - (20) CPG 7126.30, dated 10/01/80, relating to diethylstilbestrol residues in edible animal tissue;
 - (21) CPG 7126.31, dated 10/01/82, relating to the use of antibiotic drug residue by-products in animal feed;
 - (22) CPG 7126.35, dated 7/1/81, relating to sequencing as a means to prevent unsafe drug contamination in the production, storage, and distribution of feeds; and
 - (23) CPG 7126.39, dated 11/01/83, relating to ammonium chloride used in ruminant feeds.
- (c) Where there is a conflict between the provisions adopted in subsections (a) and (b) and chapter 144, Hawaii Revised Statutes, or other provisions of this chapter, the provisions of chapter

144, Hawaii Revised Statutes, or other provisions of this chapter shall prevail.

(d) The tolerance for aflatoxin in feed shall be twenty parts per billion, except that the tolerance for aflatoxin in cotton seed meal intended for non-dairy animals shall be one hundred parts per billion. The department may allow higher tolerances for aflatoxin in feed intended for non-lactating animals on a case-by-case basis upon written agreement that the Federal Food and Drug Administration will monitor the tolerance and use of the feed. [Eff and comp 1/16/84; am and comp MAR 24 1988] (Auth: HRS §144-10)
(Imp: HRS §§144-6 and 144-8)

§4-45-27 Application of tolerances. (a) Where a tolerance level is established in section 4-45-26(a) and (d), regulatory action shall be taken where the contaminant, residue, or additive is at or above the established tolerance level; provided that where there is an action level established under section 4-45-26(b) which is different from the tolerance level established under section 4-45-26(a) and (d), regulatory action shall be taken at the action level.

(b) Where no tolerance or action level is established in section 4-45-26 for an individual feed ingredient or for a commercial mixed feed composed of many ingredients which individually may have no tolerance or action level or various tolerances or action levels established under section 4-45-26, and it is determined by the department that the contaminant, residue, or additive may be poisonous or deleterious:

- (1) The department may look to a tolerance or action level of a similar feed or agricultural product intended for a similar use to determine if the contaminant, residue, or additive is at a level that requires regulatory action. A similar feed or agricultural product and its use may be determined by the department in consultation with appropriate federal or state agencies; or
- (2) The department may take regulatory action against the feed at the minimal detectable level of the contaminant, residue, or additive. "Minimal detectable level" means the lowest level at which the contaminant, residue, or additive can be reliably detected

and quantified using analytical methodology approved or recommended by the Association of Official Analytical Chemists, the Federal Food and Drug Administration, or the United States Environmental Protection Agency.
 [Eff and comp 1/16/84; am and
 comp MAR 24 1986] (Auth: HRS §144-10)
 (Imp: HRS §§144-6 and 144-8)

§4-45-28 Affidavits. Prior to the sale, offering for sale, or distribution of any feed, the person registering the feed or, in the case of a feed not subject to registration, the local distributor or importer of the feed shall submit to the department an affidavit, on a form approved by the department, attesting to the fact that the feed does not contain any pesticide residue or other adulterant in excess of the tolerances and action levels in this subchapter.
 [Eff and comp MAR 24 1986] (Auth: HRS §144-10)
 (Imp: HRS 144-8)

Table I. Tolerances To Be Applied To
Sample Results From Bulk Lots - 8/1/80

<u>PROTEIN</u>			
Guaranteed Per cent	Acceptable Tolerance	Class A Violation	Class B Violation
5.0 or less	0.3	>0.3 to 0.5	>0.5
5.01 - 10.00	0.5	>0.5 to 0.7	>0.7
10.01 - 15.00	0.5	>0.5 to 0.7	>0.7
15.01 - 20.00	0.6	>0.6 to 0.8	>0.8
20.01 - 25.00	0.6	>0.6 to 0.8	>0.8
25.01 - 30.00	0.8	>0.8 to 1.2	>1.2
30.01 - 35.00	1.0	>1.0 to 1.4	>1.4
Over 35.00	1.5	>1.5 to 2.1	>2.1

<u>FAT</u>			
Guaranteed Per cent	Acceptable Tolerance	Class A Violation	Class B Violation
5.0 or less	0.5	>0.5 to 0.7	>0.7
5.01 - 10.00	0.6	>0.6 to 0.8	>0.8
10.01 - 15.00	1.0	>1.0 to 1.4	>1.4
15.01 - 20.00	1.3	>1.3 to 1.9	>1.9
20.01 - 25.00	1.3	>1.3 to 1.9	>1.9
25.01 - 30.00	1.5	>1.5 to 2.1	>2.1
30.01 - 35.00	1.5	>1.5 to 2.1	>2.1
Over 35.00	1.5	>1.5 to 2.1	>2.1

<u>FIBER</u>			
Guaranteed Per cent	Acceptable Tolerance	Class A Violation	Class B Violation
5.0 or less	0.6	>0.6 to 0.8	>0.8
5.01 - 10.00	0.8	>0.8 to 1.1	>1.1
10.01 - 15.00	1.2	>1.2 to 1.7	>1.7
15.01 - 20.00	1.5	>1.5 to 2.1	>2.1
20.01 - 25.00	1.5	>1.5 to 2.1	>2.1
25.01 - 30.00	2.0	>2.0 to 2.8	>2.8
30.01 - 35.00	2.0	>2.0 to 2.8	>2.8
Over 35.00	2.0	>2.0 to 2.8	>2.8

<u>ASH</u>			
Guaranteed Per cent	Acceptable Tolerance	Class A Violation	Class B Violation
5.0 or less	0.5	>0.5 to 0.7	>0.7
5.01 - 10.00	0.7	>0.7 to 0.9	>0.9
10.01 - 15.00	1.2	>1.2 to 1.6	>1.6
15.01 - 20.00	1.3	>1.3 to 1.8	>1.8
20.01 - 25.00	1.3	>1.3 to 1.8	>1.8
25.01 - 30.00	1.5	>1.5 to 2.1	>2.1
30.01 - 35.00	1.5	>1.5 to 2.1	>2.1
Over 35.00	1.5	>1.5 to 2.1	>2.1

Table II. Tolerances To Be Applied To
Sample Results From Bagged Lots - 8/1/80

PROTEIN

Guaranteed Per cent	Acceptable Tolerance	Class A Violation	Class B Violation
5.0 or less	0.3	>0.3 to 0.5	>0.5
5.01 - 10.00	0.4	>0.4 to 0.6	>0.6
10.01 - 15.00	0.5	>0.5 to 0.8	>0.8
15.01 - 20.00	0.7	>0.7 to 0.9	>0.9
20.01 - 25.00	0.8	>0.8 to 1.1	>1.1
25.01 - 30.00	0.8	>0.8 to 1.1	>1.1
30.01 - 35.00	0.9	>0.9 to 1.3	>1.3
Over 35.00	1.0	>1.0 to 1.4	>1.4

FAT

Guaranteed Per cent	Acceptable Tolerance	Class A Violation	Class B Violation
5.0 or less	0.4	>0.4 to 0.6	>0.6
5.01 - 10.00	0.5	>0.5 to 0.7	>0.7
10.01 - 15.00	0.7	>0.7 to 0.9	>0.9
15.01 - 20.00	0.9	>0.9 to 1.3	>1.3
20.01 - 25.00	0.9	>0.9 to 1.3	>1.3
25.01 - 30.00	1.0	>1.0 to 1.5	>1.5
30.01 - 35.00	1.0	>1.0 to 1.5	>1.5
Over 35.00	1.0	>1.0 to 1.5	>1.5

FIBER

Guaranteed Per cent	Acceptable Tolerance	Class A Violation	Class B Violation
5.0 or less	0.6	>0.6 to 0.8	>0.8
5.01 - 10.00	0.7	>0.7 to 1.0	>1.0
10.01 - 15.00	0.9	>0.9 to 1.3	>1.3
15.01 - 20.00	1.3	>1.3 to 1.8	>1.8
20.01 - 25.00	1.3	>1.3 to 1.8	>1.8
25.01 - 30.00	1.5	>1.5 to 2.1	>2.1
30.01 - 35.00	1.5	>1.5 to 2.1	>2.1
Over 35.00	1.5	>1.5 to 2.1	>2.1

ASH

Guaranteed Per cent	Acceptable Tolerance	Class A Violation	Class B Violation
5.0 or less	0.5	>0.5 to 0.7	>0.7
5.01 - 10.00	0.6	>0.6 to 0.8	>0.8
10.01 - 15.00	0.8	>0.8 to 1.1	>1.1
15.01 - 20.00	1.0	>1.0 to 1.4	>1.4
20.01 - 25.00	1.0	>1.0 to 1.4	>1.4
25.01 - 30.00	1.5	>1.5 to 2.1	>2.1
30.01 - 35.00	1.5	>1.5 to 2.1	>2.1
Over 35.00	1.5	>1.5 to 2.1	>2.1

§4-45-1 Definitions. (a) For the purpose of enforcing chapter 144, Hawaii Revised Statutes:

"Other domestic pets" means animals other than those raised or used for commercial production of food, fiber, or labor.

(b) As used in this chapter:

"Board" means the board of agriculture.

"Department" means the department of agriculture, State of Hawaii.

"Dried pineapple pulp" means the dried peel, butts, tops, residue of inside portions of the fruit, and leaves of pineapple. The term may be used as an official name.

"Dried poultry litter (DPL)" means a processed poultry waste product composed of a processed combination of feces from poultry together with litter that was present in the floor production of poultry, which has been thermally dehydrated to a moisture content not in excess of twelve per cent. The term may be used as an official name.

"Dried poultry waste (DPW)" means a processed poultry waste product composed of feces from commercial poultry, which has been thermally dehydrated to a moisture content not in excess of twelve per cent. The term may be used as an official name.

"Dried sugar cane bagasse" means the dried portions of crushed sugar cane stalks from which the juice has been pressed out. The term may be used as an official name.

"Federal Food and Drug Administration" means the Food and Drug Administration of the United States Department of Health and Human Services.

"Final user" means a ranch, feed lot, consumer, or agricultural cooperative that purchases feed for its own use.

"Inert mineral matter" means mineral matter that does not contribute dietary factors.

"Lot" means a collection of units of a product from which an official sample is drawn, inspected, and analyzed to determine compliance with label guarantees; provided that for the purposes of determining assessment for variation from guaranteed analysis and mislabeling, as provided in section 4-45-18(d), a lot shall not exceed twenty-five tons.

"Materially damaged feed" means any feed which has been damaged by any chemical substance, smoke, insect, water, or other foreign material but is still of feedable quality.

~~"Official name" means the name of a feed ingredient which is defined in the Official Publication of the Association of American Feed Control Officials, Incorporated, 1986, pages 99 to 183, which is made part of this chapter, and those names defined in this section.~~

"Official sample" means any sample of feed taken by the department or its agent and designated as official by the department; provided that samples taken in a restricted manner shall not be considered as official samples.

"Pineapple hay" means the coarse chopped or coarse cut vegetative portion, consisting chiefly of leaves, of the pineapple plant which has been artificially or otherwise dried and is reasonably free from other crop plants, weeds, soil, or other foreign material. The term may be used as an official name.

"Processed animal waste derivative" means a product resulting from the chemical, physical, or microbiological alteration of an animal waste, which has been thermally dehydrated to a moisture content not in excess of twelve per cent. The term may be used as an official name.

"Processed animal waste product" means a product composed of excreta, with or without litter and animal drugs, from poultry, ruminants, or any other animal except humans, which has been artificially dehydrated, dry stacked, ensiled, oxidized, chemically treated, microbiologically digested, chemically or physically fractionated, or treated by other processes which will enable the product to comply with the standards in this chapter. Processed animal waste products shall be considered simple feeds. The term may be used as an official name.

"Restricted sample" means a sample that has been drawn from a lot in which every portion is not accessible for sampling.

"Selling price" means the most recent published list price before discount, F.O.B. plant for local manufactured products and the most recent list price landed Hawaii dock for imported products.

"Sliding scale method" means representing a value by a range or by two values separated by a hyphen.

"Sugar cane hay" means the coarse chopped or coarse cut reclaimed portions of unburnt leaves, immature top portions of the sugar cane stalk, and other small quantities of sugar cane stalks which have been artificially or otherwise dried. There shall be

no admixture of burnt leaves except in such amount as might unavoidably occur in good factory practice. It shall be reasonably free from other crop plants, weeds, soil, or other foreign material. The term may be used as an official name. [Eff 5/29/81; am and comp 1/16/84; am and comp 3/24/86; am NOV 17 1988]
(Auth: HRS §144-10) (Imp: HRS §144-10)

~~§4-45-18 Sampling, analysis, and penalties. ***~~

~~(c) The assessments for variance from guaranteed analysis and mislabeling shall be as follows:~~

~~(1) If the analysis of a sample shows a deviation from permitted analytical variations as provided in "Table I. Tolerances To Be Applied to Sample Results From Bulk Lots 8/1/80" or "Table II. Tolerances To Be Applied To Sample Results From Bagged Lots 8/1/80" located at the end of this chapter, the registrant shall be penalized as follows:~~

- ~~(A) Penalty assessments for deficiencies in crude protein shall be based on the relative percentage of deviation from guarantee which shall be calculated by subtracting the assayed percentage from the guaranteed percentage and dividing the result by the guaranteed percentage. Penalty assessments for class A violations shall be equal to the selling price of the lot times the relative percentage of deviation from guarantee. Penalty assessments for class B violations shall be equal to twice the selling price of the lot times the relative percentage of deviation from guarantee;~~
- ~~(B) Penalty assessments for deficiencies in crude fat shall be five per cent of the selling price of the lot for class A violations and ten per cent for class B violations; and~~
- ~~(C) Penalty assessments for excessiveness in crude fiber and ash shall be five per cent of the selling price of the lot for class A violations and ten per cent for class B violations; and~~

~~(2) If the analysis of a sample shows a deviation from permitted analytical variations as provided in "Analytical Variations (AV) Based on AAFCO Check Sample Program" on pages 94 and 95, "Food Control Drug Administration's Assay Control Limitations For Animal Drugs In Medicated Feeds" on pages 203 and 204, and "Food Control Drug Administration's Assay Control Limitations For Animal Drugs In Medicated Premixes" on pages 205 and 206 of The Official Publication~~

~~of the Association of American Feed Control
Officials, Incorporated, 1986, which is made
a part of this chapter, the registrant shall
be penalized as follows:~~

- ~~(A) Penalty assessments for either
excessiveness or deficiencies in mineral
content shall be ten per cent of the
selling price of the lot;~~
- ~~(B) Penalty assessments for excessiveness of
crude protein equivalent from
non-protein nitrogen shall be ten per
cent of the selling price of the lot;
and~~
- ~~(C) Penalty assessments for excessiveness or
deficiencies in animal drugs or their
analysis shall be ten per cent of the
selling price of the lot.~~

~~***~~

~~[Eff 5/29/81; am and comp 1/16/84; am and comp 3/24/86;
am NOV 17 1986] (Auth: HRS §144-10) (Imp: HRS
§§144-9 and 144-10)~~

SUBCHAPTER 2

PROCESSED ANIMAL WASTE PRODUCTS

§4-45-19 Registration. In addition to the requirements of section 4-45-4, applications for registration of processed animal waste products shall be accompanied by the following:

- (1) A detailed description, on a form provided by the department, of:
 - (A) The facilities, equipment, and methods to be used in the processing, manufacturing, and testing of the processed animal waste product;
 - (B) The sampling schedule;
 - (C) A full description of all tests made; and
 - (D) The results of those tests, specified in section 4-45-22(c), purporting to show the processed animal waste product meets the standards of this chapter; and
- (2) A sealed package of the processed animal waste product, containing at least two pounds of the product, together with the applicant's affidavit that the sample is representative of the processed animal waste product offered for registration. [Eff 5/29/81; am and comp 1/16/84; comp 3/24/86; am NOV 17 1986]
(Auth: HRS §144-10) (Imp: §144-3)

§4-45-20 Registration refused or canceled. The registration of a processed animal waste product shall be refused or may be subject to cancellation if:

- (1) The applicant or the processed animal waste product is determined to be in violation of chapter 144, Hawaii Revised Statutes, or this chapter;
- (2) The processed animal waste product contains any pathogenic organism, drug residue, pesticide residue, harmful parasite, or other toxic or deleterious substance which:
 - (A) Exceed levels permitted by this chapter;
 - (B) May be harmful to animals; or
 - (C) May result in harmful or unlawful residue levels in the tissue or by-products of animals;
- (3) The processed animal waste product does not

meet the quality standards of section 4-45-21;

- (4) The processed animal waste product is not labeled in compliance with section 4-45-24; or
- (5) The applicant or registrant fails to perform the testing as specified in section 4-45-22, or to accurately maintain and display to officials of the department, upon demand, the records required in section 4-45-23. [Eff 5/29/81; am and comp 1/16/84; am and comp 3/24/86 ; am NOV 17 1988] (Auth: HRS §144-10) (Imp: HRS §§144-3 and 144-6)

§4-45-21 Quality standards. (a) No processed animal waste product shall contain:

- (1) Any extraneous material such as, but not limited to, metal, glass, wire, or nails;
- (2) Any heavy metal, provided that the following tolerances are permitted: arsenic, three and one-half parts-per-million; lead, seven parts-per-million; and mercury, one-half part-per-million;
- (3) Copper in excess of two hundred fifty parts-per-million;
- (4) Aflatoxins in excess of twenty parts-per-billion; or
- (5) Pesticide residue or drug residue in excess of the provisions in subchapter 3.

(b) Dried poultry waste shall contain:

- (1) A minimum of eighteen per cent crude protein;
- (2) A maximum of fifteen per cent crude fiber;
- (3) A maximum of thirty-five per cent ash;
- (4) A maximum of one per cent feathers; and
- (5) A maximum of twelve per cent moisture.

(c) Dried poultry litter shall contain:

- (1) A minimum of eighteen per cent crude protein;
- (2) A maximum of thirty per cent crude fiber;
- (3) A maximum of thirty per cent ash;
- (4) A maximum of five per cent feathers; and
- (5) A maximum of twelve per cent moisture.

(d) Processed animal waste derivatives shall

contain:

- (1) A minimum of eighteen per cent crude protein;
- (2) A maximum of twenty per cent crude fiber;
- (3) A maximum of thirty-five per cent ash; and
- (4) A maximum of twelve per cent moisture.

(e) Any product labeled as or containing processed animal waste products shall not exceed twelve per cent moisture to aid in maintaining stable microbiological quality. [Eff 5/29/81; am and comp 1/16/84; am and comp 3/24/86; am NOV 17 1986] (Auth: HRS §144-10) (Imp: HRS §§144-6 and 144-10)

~~§4-45-22 Testing. (a) Any person seeking or receiving registration of any processed animal waste product shall test that product, at a laboratory approved by the department, utilizing methods of sampling and analysis as set forth in "Official Methods of Analysis of the Association of Official Analytical Chemists, 1985" or other methods designated by the board in specific cases.~~

(b) The sample shall be representative and of sufficient size so as to provide meaningful and statistically reliable data to carry out the purpose of the sampling and analysis. The sample shall be drawn by the testing laboratory, a party approved by the department, or the department. The department may provide the sampling service during normal business hours, to the extent that inspection personnel is available and a twenty-four hour minimum advanced notice is given. The charges for this service shall be as prescribed in section 4-45-16.

(c) Testing of processed animal waste products shall consist of analyses to show that the product meets the appropriate quality standards in section 4-45-21 and to test for potential hazardous substances as follows:

- (1) Drugs suspected or known to be used in the feed or as a therapeutic treatment of animals;
- (2) Pesticides used on the animals, facilities, and wastes for pest control;
- (3) Pathogenic organisms to include Salmonella and E. coli;
- (4) The heavy metals arsenic, cadmium, copper, lead, mercury, selenium, bismuth, and antimony;
- (5) Parasitic larva or ova; and
- (6) Aflatoxins.

(d) Initial testing, prior to registration and sale of the processed animal waste product, shall be conducted on three sequential production runs to establish that the processed animal waste product is

consistently within the specified limitations of sections 4-45-21 and 4-45-22(c).

(e) Following the initial sequential testing, periodic analyses shall be conducted on production runs not less than once each calendar quarter. However:

- (1) Less frequent testing may be allowed by written permission from the department when the analytical results show continued uniformity and a consistent margin of compliance; or
- (2) More frequent tests may be required by written notice from the department when the results of testing under this section or under section 4-45-18 show a wide range, or show levels close to the established quality standards in sections 4-45-21 and 4-45-22(c).

(f) Sequential testing, required by subsection (d), shall again be required when the periodic analyses required by subsection (e), or other information available to the manufacturer of the processed animal waste product, indicates that:

- (1) The processed animal waste product is not within the limitations of section 4-45-21 or 4-45-22(c);
- (2) Changes are made in the manufacturing process;
- (3) New or expanded sources of the raw ingredients are used; or
- (4) Changes have occurred in the drugs or pesticides used by the suppliers of the raw ingredients.

(g) Any processed animal waste product that does not meet quality standards for the product specified in sections 4-45-21 and 4-45-22(c) shall be further processed until standards are met, diverted to non-feed uses, or destroyed. [Eff 5/29/81; am and comp 1/16/84; am and comp 3/24/86; am NOV 17 1986] (Auth: HRS §144-10) (Imp: HRS §§144-6, 144-8, and 144-9)

§4-45-23 Records. (a) Any person seeking or receiving registration of any processed animal waste product shall keep for a period of two years, accurate records of:

- (1) All sources of raw materials and date acquired, including information on drug and pesticide usage;
- (2) All production output, including a code or

- other method to identify the date of production and the lot;
- (3) All sales and distribution, including the name and address of the purchaser or to whom distributed, date, quantity, and production code; and
 - (4) The sampling and assay records of the testing required by section 4-45-22.
- (b) Records shall be made available to officials of the department during normal business hours for purposes of enforcing this chapter. A copy of these records shall be made available to the department for its files on twenty-four hour notice. [Eff 5/29/81; am and comp 1/16/84; comp 3/24/86; am NOV 17 1988]
 (Auth: HRS §144-10) (Imp: HRS §§144-5, 144-6, and 144-9)

§4-45-24 Labeling requirements. (a) The label, invoice, or delivery slip accompanying shipments of processed animal waste products or commercial mixed feeds containing processed animal waste products shall contain all information required by subchapter 1, and in addition shall include the following information, in percentages, in the list of guarantees:

- (1) The maximum moisture content following the ash guarantee; and
 - (2) The maximum lignin, following the moisture guarantee, if the product is dried poultry litter and contains wood-based bedding materials.
- (b) The following special warning shall be required on the label, invoice, or delivery slip of processed animal waste products, in bold face type at least one-half as large as any other type appearing on the label:
- (1) If the product contains drug residues, then the label shall contain the following statement, "WARNING: THIS PRODUCT CONTAINS DRUG RESIDUES. DO NOT USE WITHIN 30 DAYS OF SLAUGHTER AND DO NOT USE 30 DAYS PRIOR TO OR DURING THE FOOD PRODUCTION PERIOD OF DAIRY ANIMALS AND LAYING HENS."; or
 - (2) If the product contains levels of copper of twenty-five parts per million or greater, a maximum guarantee of copper and the following statement, "WARNING: CONTAINS HIGH LEVELS OF COPPER, DO NOT FEED TO SHEEP."

(c) The label, invoice, or delivery slip of a commercial mixed feed containing processed animal waste product shall state, in the ingredient statement, the type of processed animal waste product and the maximum percentage contained therein. [Eff 5/29/81; comp 1/16/84; comp 3/24/86; am NOV 17 1988]
(Auth: HRS §144-10) (Imp: HRS §144-4)

§4-45-25 Restrictions. (a) This subchapter shall apply to processed animal waste products in intrastate commerce only.

(b) Processed animal waste products shall not be used in feeds for lactating dairy animals or laying hens. [Eff 5/29/81; am and comp 1/16/84; comp 3/24/86; am NOV 17 1988] (Auth: HRS §144-10) (Imp: HRS §§144-6 and 144-10)

~~§4-45-1 Definitions. ***~~

~~"Official name" means the name of a feed ingredient which is defined in the Official Publication of the Association of American Feed Control Officials, Incorporated, 1992, pages 127 to 214, which is made part of this chapter, and those names defined in this section.~~

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~~[Eff. 5/29/81; am and comp 1/16/84; am and comp 3/24/86; am 11/17/86; am MAY 26 1992] (Auth. HRS §144-10) (Imp: HRS §144-10)~~

~~§4-45-16 Certification of feeds. ***~~

~~(b) The fee for any inspection, certification, or analysis shall be \$22.80 per hour for regular time and \$34.20 per hour for overtime for time required to perform the service. Additional charges may be made for transportation, travel time, per diem, travel expenses, and other actual expenses incurred by the department when an inspection is performed in an area not conveniently located. No charge shall be made for travel time when an inspection point is not more than ten minutes of travel time or seven miles travel distance, whichever is greater, from the office of inspection.~~

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~~(EFF 5/29/81; am and comp 1/16/84; am and comp 3/24/86; am MAY 20 1992) (Auth: HRS §144-10)
(Emp: HRS §144-10)~~

~~54-45-18 Sampling, analysis, and penalties.~~

~~(a) Unless the board designates otherwise in specific cases, the methods of sampling and analysis shall be as set forth in "Official Methods of Analysis of the Association of Official Analytical Chemists, 1990".~~

~~(b) The results of all analysis of official samples shall be forwarded by the department to the person who registered the commercial feed and to the owner of the feed from which the sample had been drawn.~~

~~(c) The assessments for variance from guaranteed analysis and mislabeling shall be as follows:~~

~~(1) If the analysis of a sample shows a deviation from permitted analytical variations as provided in "Table I. Tolerances To Be Applied To Sample Results From Bulk Lots 8/1/80" or "Table II. Tolerances To Be Applied To Sample Results From Bagged Lots 8/1/80" located at the end of this chapter, and made a part of this chapter, the registrant shall be penalized as follows:~~

~~(A) Penalty assessments for deficiencies in crude protein shall be based on the relative percentage of deviation from guarantee which shall be calculated by subtracting the assayed percentage from the guaranteed percentage and dividing the result by the guaranteed percentage. Penalty assessments for class A violations shall be equal to the selling price of the lot times the relative percentage of deviation from guarantee. Penalty assessments for class B violations shall be equal to twice the selling price of the lot times the relative percentage of deviation from guarantee;~~

~~(B) Penalty assessments for deficiencies in crude fat shall be five per cent of the selling price of the lot for class A violations and ten per cent of the selling price of the lot for class B violations; and~~

- (C) Penalty assessments for excessiveness in crude fiber and ash shall be five per cent of the selling price of the lot for class A violations and ten per cent of the selling price of the lot for class B violations; and
- (2) If the analysis of a sample shows a deviation from permitted analytical variations as provided in "Analytical Variations (AW) Based on AAFCO Check Sample Program" on pages 109 and 110 of The Official Publication of the Association of American Feed Control Officials, Incorporated, 1992, which is made a part of this chapter, the registrant shall be penalized as follows:
- (A) Penalty assessments for either excessiveness or deficiencies in mineral content shall be ten per cent of the selling price of the lot;
- (B) Penalty assessments for excessiveness of crude protein equivalent from non-protein nitrogen shall be ten per cent of the selling price of the lot; and
- (C) Penalty assessments for excessiveness or deficiencies in animal drugs or their analysis shall be ten per cent of the selling price of the lot.
- (d) Penalties for multiple deficiencies within a sample shall be applied separately; provided that in no case shall the penalty exceed the selling price of the lot.
- ~~(e) The minimum penalty under this section shall be \$25 or the selling price of the lot whichever is smaller.~~
- (f) All assessments levied by the department under this section shall within sixty days from the date of notice to the registrant, importer, or distributor, be paid to the department to be deposited to the credit of the state general fund. Failure to pay the assessment shall be grounds for cancellation of all registrations of the registrant. It is the duty of the department to institute appropriate proceedings to recover the assessments.
- (g) Penalty assessments under this section shall not apply to commercial simple feeds,

commercial feeds manufactured or processed by a final user for its own account, or restricted samples.

(h) If the microscopic analysis reveals that any commercial mixed feed is mislabeled, the department may assess a penalty of ten per cent of the selling price of the lot against the registrant or distributor. [Eff 5/29/81; am and comp 1/16/84; am and comp 3/24/86; am 11/17/86; am MAY 23 1992]
(Auth: HRS §144-10) (Imp: HRS §§144-9 and 144-10)

~~§4-45-22 Testing. (a) Any person seeking or receiving registration of any processed animal waste product shall test that product, at a laboratory approved by the department, utilizing methods of sampling and analysis as set forth in "Official Methods of Analysis of the Association of Official Analytical Chemists, 1990" or other methods designated by the board in specific cases.~~

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~~[Eff 5/29/81; am and comp 1/16/84; am and comp 3/24/86; am 11/17/86; am MAY 20 1992] (Auth: HRS §144-10) (Imp: HRS §§144-6, 144-8 and 144-9)~~

§4-45-26 Tolerances. (a) The following provisions of the Code of Federal Regulations, as they apply to feed, are adopted for use by the department in enforcing chapter 144, Hawaii Revised Statutes, and this chapter:

- (1) 40 CFR, Part 180, entitled "Tolerances and Exemptions from Tolerances for Pesticide Chemicals In or On Raw Agricultural Commodities", revised as of July 1, 1991; and
- (2) 21 CFR, Chapter I, entitled "Food and Drug Administration, Department of Health and Human Services (Parts 1-1299)", revised as of April 1, 1991.

(b) The following compliance policy guides issued by the Federal Food and Drug Administration, as they apply to feed, are adopted for use by the department in enforcing chapter 144, Hawaii Revised Statutes, and this chapter:

- (1) CPG 7126.01, dated 06/01/86, relating to tracers in animal feed;
- (2) CPG 7126.05, dated 11/01/81, relating to diversion (after heat treatment) of rodent, roach, or bird contaminated food for animal use;
- (3) CPG 7126.06, dated 10/01/80, relating to state analysis of animal feed for protein, fat, and fiber content;
- (4) CPG 7126.07, dated 10/01/80, relating to salmonella contamination of animal feed and animal feed ingredients;
- (5) CPG 7126.10, dated 10/01/80, relating to moisture damaged grain;
- (6) CPG 7126.11, dated 06/01/86, relating to the status of vitamins and minerals in type B and type C medicated feed and in non-medicated feed;
- (7) CPG 7126.12, dated 06/01/86, relating to use of type A medicated article brand names in medicated feed labels;
- (8) CPG 7126.13, dated 10/01/80, relating to animal by-products for feeds - salmonella contamination;
- (9) CPG 7126.15, dated 03/01/82, relating to crotalaria seeds in grains and feeds;

- (10) CPG 7126.19, dated 07/01/86, relating to CGMP regulations for medicated feeds--daily inventory requirements;
- (11) CPG 7126.20, dated 11/01/81, relating to diversion of adulterated human or animal food to acceptable animal feed use;
- (12) CPG 7126.21, dated 10/01/80, relating to silage ingredients;
- (13) CPG 7126.24, dated 10/01/80, relating to rendered animal feed ingredients;
- (14) CPG 7126.25, dated 10/01/80, relating to ammoniated cottonseed meal - interpretation of 21 CFR 573.140;
- (15) CPG 7126.26, dated 10/01/80, relating to checklist labeling for custom mixed medicated feeds;
- (16) CPG 7126.28, dated 10/01/80, relating to use of drug-contaminated products in animal feed;
- (17) CPG 7126.29, dated 10/01/80, relating to unsafe contamination of animal feed from drug carryover;
- (18) CPG 7126.30, dated 10/01/80, relating to diethylstilbestrol residues in edible animal tissue;
- (19) CPG 7126.31, dated 10/01/82, relating to the use of antibiotic drug residue by-products in animal feed;
- (20) CPG 7126.35, dated 06/01/86, relating to sequencing as a means to prevent unsafe drug contamination in the production, storage and distribution of feeds;
- (21) CPG 7126.37, dated 06/01/86, relating to medicated feed CGMP's (part 225) and type A medicated article CGMP's (part 226) - combining discrete batches into a comingled lot;
- (22) CPG 7126.39, dated 11/01/83, relating to ammonium chloride used in ruminant feeds;
- (23) CPG 7126.41, dated 05/02/88, relating to direct-fed microbial products; and
- (24) CPG 7141.01, dated 12/01/89, relating to pesticide residues in food and feed - enforcement criteria.

(c) Where there is a conflict between the provisions adopted in subsections (a) and (b) and chapter 144, Hawaii Revised Statutes, or other

provisions of this chapter, the provisions of chapter 144, Hawaii Revised Statutes, or other provisions of this chapter shall prevail.

(d) The tolerance for aflatoxin in feed shall be twenty parts per billion, except that the tolerance for aflatoxin in cottonseed meal intended for non-dairy animals shall be one hundred parts per billion. The department may allow higher tolerances for aflatoxin in feed intended for non-lactating animals on a case-by-case basis upon written agreement that the Federal Food and Drug Administration will monitor the tolerance and use of the feed. [Eff and comp 1/16/84; am and comp 3/24/86; am MAY 25 1992] (Auth: HRS §144-10) (Imp: HRS §§144-6 and 144-8)

S4-45-1 Definitions. ***

"Official methods of sampling and analysis" means the methods of sampling and analysis as set forth in "Official Methods of Analysis of AOAC International, 17th Edition, 2000, Volumes I and II" or other methods designated by the board in specific cases.

[Eff 5/29/81; am and comp 1/16/84; am and comp 3/24/86; am 11/17/86; am 5/26/92; am **OCT 05 2002**]
(Auth: HRS §144-10) (Imp: HRS §144-10)

Section 4-45-3 Expression of guarantees. ***

(b) The guaranteed analysis of commercial feed shall list:

1. The minimum percentage of crude protein;
2. The minimum percentage of crude fat; and
3. The maximum percentage of crude fiber;

except that products sold solely as mineral and vitamin supplements and guaranteed as specified in subsections (d) and (e) need not show guarantees for protein, fat, and fiber, but must be labeled with adequate feeding or mixing directions.

(Eff 5/29/81; comp 1/16/84; comp 3/24/86;
am **OCT 05 2002**] (Auth: HRS §144-10) (Imp: HRS
§144-4)

§4-45-4 Registration. (a) Registration of commercial feeds shall be the responsibility of the local manufacturer, importer, or distributor.

(b) Application for registration shall be submitted in duplicate on forms furnished by the department on request from the applicant or available on the department's internet web site and shall be accompanied by two labels for each feed to be registered.

(c) A registration fee of \$30 shall be paid for each commercial feed registered, except when subject to the exemption under subsection (i).

(d) Registration shall become effective on the date the certificate of registration is issued and shall continue in effect as long as the feed is sold in the State and there have been no major changes to the label submitted with the application for registration.

(e) Registration of a commercial feed shall expire when it has not been sold in the State for twelve consecutive quarters, as evidenced by no reported sales of that commercial feed on the tonnage reports required under section 4-45-5. A registrant may also withdraw the registration of a commercial feed in writing to the department.

(f) When payments for fees or penalties covered by this chapter are by check, a service fee shall be assessed for each check that is not honored.

(g) Notice shall be given to the department of any proposed change in the format or contents of the label for any feed registered with the department. The registrant shall describe the changes desired and shall submit an application for registration with two copies of the revised label. Before a revised label is approved by the department, the product shall not be marketed with the revised label. After the date the change in labeling is approved by the department, the product shall be marketed only under the revised label, except that a reasonable time may be permitted by the department to dispose of or to utilize the old labels.

(h) Any change to the information required on the label of a registered feed in section 144-4, Hawaii Revised Statutes, or this chapter, shall constitute a major change and require a new registration of the feed and payment of the registration fee, except for the

following if the change does not result in a lowering of the feeding value of the registered feed for its designed purpose:

- (1) A change to the ingredients or the order of predominance of ingredients in the ingredient statement; and
- (2) A change to a guarantee of less than ten per cent of the guarantee in the original registration.
 - (i) Any trial shipment of a commercial feed in lot size not exceeding two hundred and fifty pounds may be exempt from the registration fee requirement in subsection (c) on a one time basis. Any subsequent shipment, regardless of lot size, shall be subject to the registration fee. Two labels shall be submitted to the department for each feed distributed on a trial basis. When requested, the distributor shall provide proof that any unsold feed in storage is part of the initial trial shipment.
 - (j) The department, upon receipt and review of a registration of a commercial feed or a request to change the label of a registered commercial feed, shall issue either of the following to the registrant, no later than ten working days from the date of receipt:
 - (1) The approved registration of a commercial feed or the approved change to the label of a registered commercial feed, if the application for registration or request to change the label of a registered commercial feed is properly completed and includes any fees, penalties, or other supplemental information required by chapter 144, Hawaii Revised Statutes, or this chapter; or
 - (2) A written statement that the registration or change to the label of a registered commercial feed is denied and an explanation of the reason for the denial. [Eff 5/29/81; am and comp 1/16/84; am and comp 3/24/86; am **OCT 05 2002**] (Auth: HRS §144-10)
(Imp: HRS §144-3)

S4-45-6 Inspection fees. ***

(e) Inspection fees which have not been remitted to the department within thirty days following the due date specified in section 144-5(b)(1), Hawaii Revised Statutes, shall have a penalty fee of ten per cent added to the amount due when payment is finally made.

[Eff 5/29/81; am and comp 1/16/84; am and comp 3/24/86; am **OC 05 2002**] (Auth: HRS §144-10) (Imp: HRS §144-5)

§4-45-16 Certification of feeds. ***

(b) The fee for any inspection, certification, or analysis shall be \$31.00 per hour for regular time and \$46.50 per hour for overtime for time required to perform the service. Additional charges may be made for transportation, travel time, per diem, travel expenses, and other actual expenses incurred by the department.

[Eff 5/29/81; am and comp 1/16/84; am and comp 3/24/86; am 5/26/92; am **OCT 05 2002**] (Auth: HRS §144-10) (Imp: HRS §144-10)

§4-45-18 Sampling, analysis, and penalties. (a)
The official methods of sampling and analysis shall be
used.

[Eff 5/29/81; am and comp 1/16/84; am and comp
3/24/86; am 11/17/86; am 5/26/92; am **OCT 05 2002**]
(Auth: HRS §144-10) (Imp: HRS §§144-9, 144-10)

§4-45-18 Sampling, analysis, and penalties. ***

(c) The assessments for variance from guaranteed analysis and mislabeling shall be as follows:

- (1) If the analysis of a sample shows a deviation from permitted analytical variations as provided in "Table I. Tolerances To Be Applied To Sample Results From Bulk Lots 8/1/80" or "Table II. Tolerances To Be Applied To Sample Results From Bagged Lots 8/1/80" located at the end of this chapter, and made a part of this chapter, the registrant shall be penalized as follows:
 - (A) Penalty assessments for deficiencies in crude protein shall be based on the relative percentage of deviation from guarantee which shall be calculated by subtracting the assayed percentage from the guaranteed percentage and dividing the result by the guaranteed percentage. Penalty assessments for class A violations shall be equal to the selling price of the lot times the relative percentage of deviation from guarantee. Penalty assessments for class B violations shall be equal to twice the selling price of the lot times the relative percentage of deviation from guarantee;
 - (B) Penalty assessments for deficiencies in crude fat shall be five per cent of the selling price of the lot for class A violations and ten per cent of the selling price of the lot for class B violations; and
 - (C) Penalty assessments for excessiveness in crude fiber shall be five per cent of the selling price of the lot for class A violations and ten per cent of the selling price of the lot for class B violations; and
- (2) If the analysis of a sample shows a deviation from permitted analytical variations as provided in "Analytical Variations (AV) Based On AAFCO Check Sample Program" on pages 207

and 208 of The Official Publication of the Association of American Feed Control Officials, Incorporated, 2001, which is made a part of this chapter, the registrant shall be penalized as follows:

- (A) Penalty assessments for either excessiveness or deficiencies in mineral content shall be ten per cent of the selling price of the lot;
- (B) Penalty assessments for excessiveness of crude protein equivalent from non-protein nitrogen shall be ten per cent of the selling price of the lot; and
- (C) Penalty assessments for excessiveness or deficiencies in animal drugs or their analysis shall be ten per cent of the selling price of the lot.

[Eff 5/29/81; am and comp 1/16/84, am and comp 3/24/86; am 11/17/86; am 5/26/92; am **OCT 05 2002**,]
(Auth: HRS §144-10) (Imp: HRS §§144-9, 144-10)

§4-45-18 Sampling, analysis, and penalties. ***

(e) The minimum penalty under this section shall be \$50 or the selling price of the lot whichever is smaller.

[Eff 5/29/81; am and comp 1/16/84; am and comp 3/24/86; am 11/17/86; am 5/26/92; am OCT 05 2002]
(Auth: IRS §144 10) (Imp: HRS §§144-9, 144-10)

§4-45-22 Testing. (a) Any person seeking or receiving registration of any processed animal waste product shall test that product, at a laboratory approved by the department, utilizing official methods of sampling and analysis.

[Eff 5/29/81; am and comp 1/16/84; am and comp 3/24/86; am 11/17/86; am 5/26/92; am OCT 05 2002]
(Auth: HRS §144-10) (Imp: HRS §§ 144-6, 144-8, 144-9)