



**THE ATTORNEY GENERAL
OF TEXAS**

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May 29, 1973

The Honorable Joe Hubenak, Chairman
Agriculture and Livestock Committee
House of Representatives
Austin, Texas

Letter Advisory No. 49

Re: May non-protein nitrogen
sources be included in the
total percentage of crude
protein in the guaranteed
analysis as prescribed in
Article 3881e, V. T. C. S. ?

Dear Representative Hubenak:

You have requested the opinion of this office on the captioned question. As you noted in your request, the Commercial Feed Control Act of 1957 (Article 3881e, V. T. C. S.) requires labelling of covered feeds to show the guaranteed analysis, including the minimum percentage of crude protein. As you also noted, the Act does not define crude protein.

Section 11(b) of the Act authorizes the Director to:

"Prescribe, adopt, and publish regulations establishing definitions and minimum standards for commercial feed which, to the extent practicable in the discretion of the Director, shall be in harmony with the official pronouncements of the Association of American Feed Control Officials "

Pursuant to this provision of the Act, Rules and Regulations have been adopted and amended, including therein Rule 8, Non-Protein Nitrogen. That rule provides:

"Urea and other non-protein nitrogen products defined by the Association of American Feed Control Officials, are acceptable ingredients in proprietary cattle, sheep and goat feeds only, provided the parenthetical statement ("For Ruminants Only") is printed on the label directly below the brand or product name on all feeds with the exception of

those containing diethylstilbestrol. In these instances, this statement is to be replaced with the phrase: 'For Fattening Beef Cattle Only,' or in sheep feeds, by the statement: 'For Fattening Sheep Only.' These materials shall be considered adulterants in proprietary feeds for other animals and birds; and the following statement of guarantee of crude protein for feeds containing these materials shall be used:

Crude protein not less than _____ percent
(This includes not more than _____ percent equivalent protein from non-protein nitrogen).

"If the equivalent protein from non-protein nitrogen in a feed exceeds one-third of the total crude protein, or if more than 8.75% equivalent protein is from non-protein nitrogen, the label shall bear adequate directions for the safe use of such feeds and the following or similar statement:

WARNING (or CAUTION): Use as directed.

"The directions for use and the caution statement shall be in type of such size as to render it likely to be read and understood by ordinary persons under customary conditions of purchase and use.

"This regulation applies to invoiced, labeled customer-formula feeds, as well as, registered brand labeled feeds."

This rule permits the inclusion of equivalent protein from non-protein nitrogen in the total crude protein content only in feed for ruminants. This rule is entitled to great weight since it evidences the standing interpretation of "crude protein" in use by the agency, and additionally because properly

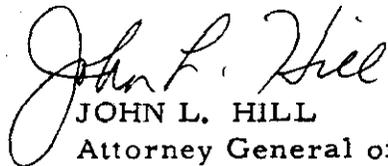
adopted pursuant to the governing Act.

Furthermore, the definition is that which is the uniform understanding and has the long-standing acceptance of the users, distributors and manufacturers of feeds. Equally important, the accepted and established scientific definition of crude protein includes such equivalent protein from non-protein nitrogen. Scientific authorities in the area of animal nutrition recognize this definition, and such nitrogen sources are, in such proportions and quantities as permitted by rule 8, protein equivalents in the diet of ruminants.

It is, therefore, our opinion that, to the extent permitted by the rules adopted pursuant to Article 3881e, §11, V. T. C. S., non-protein sources of nitrogen may be included in the total percentage of crude protein in the guaranteed analysis of feeds required by the Commercial Feed Control Act of 1957.

Scientific authorities include the following: Horwitz, William, ed., Official Methods of Analysis of the Association of Official Analytical Chemists, 123, 1970; Maynard, Leonard A., and Looski, John K., Animal Nutrition, 6th ed., 124, 135, 138-139; Morrison, Frank B., Feeds and Feeding, A Handbook for the Student and Stockman, 22nd ed., 10, 12, 1959.

Very truly yours,


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APPROVED:


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