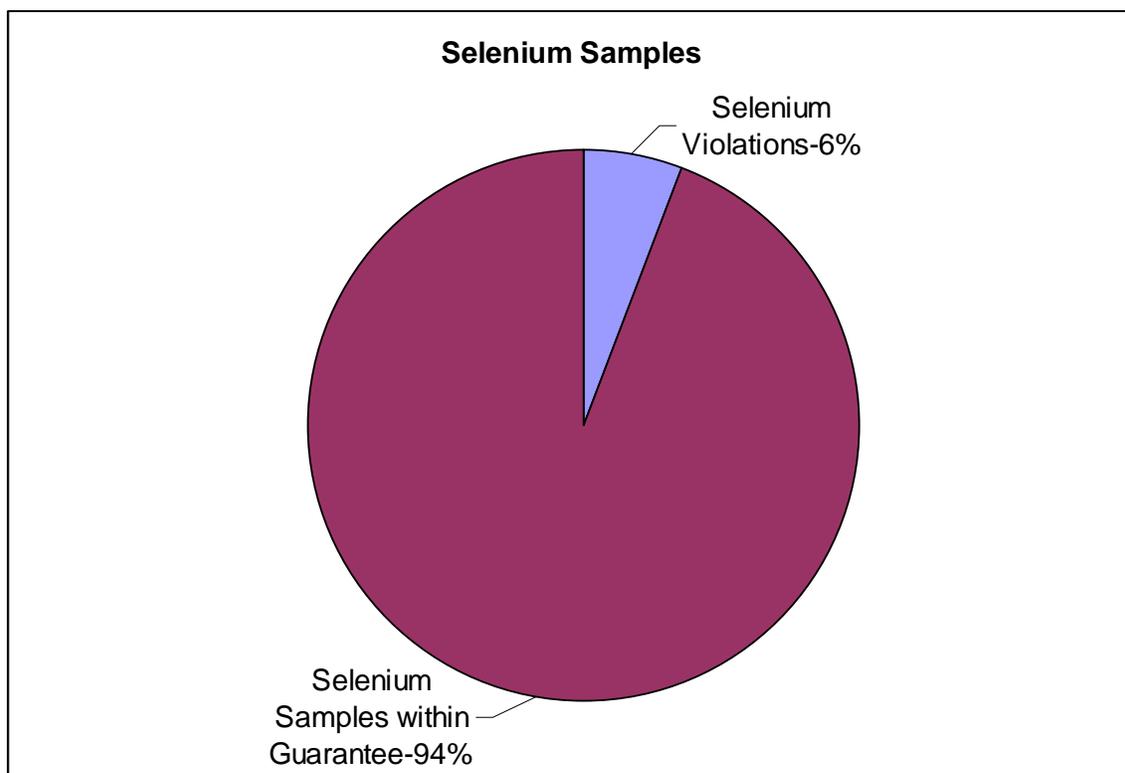


Selenium

(January 1st, 2012 – August 1st, 2012)

69 assay reports were obtained for Selenium for this reporting period.

-Of these samples, 4 violations occurred (violation rate 6%).



2697. Labeling for Special Purposes.

(d) Commercial feeds containing more than 0.3 parts per million (ppm) added selenium shall include the following on the label:

- (1) A guaranteed analysis statement for the minimum and maximum parts per million (ppm) of selenium.
- (2) Feeding and/or mixing instructions that bear adequate directions for the safe and permitted use of a feed containing added selenium, including the maximum permitted levels of use for a specific species.
- (3) The statement “Caution: Follow label directions: Feeding added selenium at levels in excess of 0.3 ppm in the total diet is prohibited.”

Authority: Sections 407 and 14902 of the Food and Agricultural Code.
Reference: Sections 14903, 14993, 15011, and 15041 of the Food and Agricultural Code.

Article 8. Mislabeling

15031. A commercial feed is mislabeled in all of the following cases:

- (a) Its labeling is false or misleading in any particular.
- (b) It is not labeled as required by this chapter.
- (c) Any word, statement, or other information required pursuant to this chapter to appear on the label is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices in the labeling and in such terms as to render it likely to be read and understood under customary conditions of purchase and use.

Article 12. Violations

15071.

- (a) Unless otherwise specified, any violation of this chapter or the regulations adopted pursuant to it is a misdemeanor which is punishable by a fine of not more than five hundred dollars (\$500) for the first violation and not less than one thousand dollars (\$1,000) for each subsequent violation.
- (b) The secretary may, after a hearing, refuse to issue or renew, or may suspend or revoke a license for any violation of this chapter or any regulation which is adopted pursuant thereto.
- (c) Upon calling a hearing, the secretary shall serve notice personally or by mail to the licensee specifying the time and place at least 10 days prior to the hearing. At the hearing, the secretary, may do all of the following:
 - (1) Administer oath and hear testimony.
 - (2) Issue subpoenas requiring the attendance of the licensee and witness.
 - (3) Compel the disclosure of the licensee to any witness of all the facts known to him or her regarding the case. In no instance shall any employee of the Feed, Fertilizer, and Livestock Drugs Branch serve as the hearing officer in any case under this section.

15071.5

- (a) In lieu of any other penalty provided by this chapter, the secretary may levy a civil penalty against a person who violates Section 15051, 15053, 15054, in an amount not to exceed five hundred dollars (\$500) for each violation.
- (b) Before civil penalty is levied, the person charged with the violation shall receive notice of the nature of the violation.
- (c) Any person against whom a civil penalty is imposed pursuant to this section may appeal to the secretary within 10 days of receiving notification of the penalty in accordance with the following procedure:
 - (1) The appeal shall be in writing and signed by the appellant or his or her authorized agent, and shall state the grounds for the appeal.

- (2) Any party may, at the time of filing the appeal of within 10 days thereafter, submit written evidence and a written argument to the secretary.
 - (3) The secretary may authorize a person to present an oral argument on their behalf. The person shall submit a request to present an oral argument at the same time the written evidence or written arguments are submitted.
 - (4) If a request to present an oral argument is granted by the secretary, the secretary shall give written notice of the time and place for the oral argument not less than 10 days prior to the date set for the oral argument. This time requirement may be altered by an agreement between the secretary and appellant.
 - (5) The secretary shall decide the appeal on the basis of the oral and written arguments, briefs, and evidence presented to the secretary.
 - (6) The secretary shall render a written decision within 45 days of the date the appeal was received or within 15 days of the date of the oral argument, which date is later.
 - (7) On an appeal pursuant to this section, the secretary may sustain the decision, modify the amount of the penalty imposed, or reverse the decision. A copy of the secretary's decision shall be delivered or mailed to the appellant.
 - (8) The decision of the secretary may be reviewed pursuant to Section 1094.5 of the Code of Civil Procedure.
- (d) Any funds recovered by the secretary pursuant to this section shall be deposited in a special account in the Department of Food and Agriculture Fund and, notwithstanding Section 13340 of the Government code, are continuously appropriated to cover costs related to the enforcement of this division.

15072. IT is unlawful for any person to manufacture or distribute in this state any commercial feed without complying with the provisions of this chapter and the regulations which are adopted pursuant to it.

15072.5. It is unlawful for any person to use commercial feed containing drugs or food additives except in compliance with all directions for use stated on any tag or label affixed to or accompanying the commercial feed.

15073. The secretary may seize and hold any lot of commercial feed which he has reasonable cause to believe is in violation of the provisions of this chapter or the regulations adopted pursuant to it.

15074. If the secretary seizes any lot of commercial feed, he shall immediately issue to the person that has control of such feed a hold order to notice. He may affix to the lot or package of such feed a warning tag which states that the lot is so held.

15075.

- (a) Any lot of commercial feed for which a hold order or notice is issued shall be held by the person having control of the feed and shall not be distributed or move except under the specific directions of the secretary pending final disposition pursuant to this chapter. This restriction does not prevent the person having control of the feed from inspecting any feed so seized, nor from taking there from,

in the presence of a person designated by the secretary, a reasonable sample for evidence.

- (b) The movement, distribution, or sale of all or part of any lot, parcel, or package of commercial feed that has been quarantined by the secretary, unless the movement has the prior approval of the secretary, is a misdemeanor punishable by a fine of not more than five hundred dollars (\$500). A second or subsequent violation of this subdivision is a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000).

15076. Any lot of commercial feed which is seized and held pursuant to this chapter, unless previously analyzed by the secretary, shall be sampled and promptly analyzed within a reasonable period of time, as set by the secretary of regulation, after the seizures for the purpose of determining if such commercial feed is, in fact, in violation of the provisions of this chapter or the regulations adopted pursuant to it. The person having control of the feed shall be immediately notified by the secretary as to whether or not the sample was found to be in violation. If the results of the analysis are not made known to the person having control of the feed within the period of time specified by the secretary by regulation, the lot of commercial feed being held shall be immediately released and the hold order or tag removed.

15077. Upon demand of the person having control of the seized feed and within 10 days of sampling by the secretary, a subsample shall be returned from the state laboratory to the person in control of the feed.

15078. If the seized and held lot, as determined by the secretary's analysis, is not in violation, the secretary shall immediately release the seized and held lot and remove the hold order or tag.

- 15079.** If the seized and held lot is found to be in violation, the secretary shall either:
- (a) Continue to hold the lot until such time as the requirements of this chapter have been complied with, at which time the lot shall be released.
 - (b) Issue orders for the disposal of the lot in a manner specified by the secretary.

15080. The authority of the issuance of citations under this chapter is limited to violations of Section 14991, 15011, 15042, 15056, or 15075. The procedures for the issuance of citation and penalties shall be prescribed in a citations policy adopted by the secretary, notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, upon the recommendation of the Feed Inspection Advisory Board.

2701. Labeling of Feeds Containing Drugs.

Without exception, each delivery of commercial feed containing drugs must be accompanied by a label, invoice or delivery document stating in a prominent manner:

- (a) The name and quantity of each drug and active ingredient
- (b) The purpose of each drug and active ingredient.

- (c) The term, "MEDICATED" prominently displayed immediately above or below the name of the feed.
- (d) Adequate directions for use.
- (e) Warnings against use of the feed under contra-indicated conditions, including danger to the health of the animal, and warnings against use of the animal or its products for particular purposes when necessary.
- (f) Withdrawal warnings where necessary to assure compliance with residue limitations imposed by regulation.
- (g) Each batch of product run of medicated feed shall be identified with its own individual batch or production run number, code, date or other suitable identification. Bulk feed shall have this information stated on the label, invoice or shipping document. Sacked or packaged feed shall have the lot number applied to the label, sack or package.

This identification shall be adequate to facilitate the tracing of the complete manufacturing and distribution history of the product.

Authority: Sections 407 and 14902, Food and Agricultural Code

Reference: Sections 14903, 14992(f) and 15011, Food and Agricultural Code.