

# UPDATE

Food and Drug Law, Regulation and Education



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# FDAAA-Mandated Updated Standards for Pet Food Labeling

By Jeannie Perron and Jessica P. O'Connell



In September 2007, in the wake of the melamine in pet food crisis that had erupted a few months earlier, Congress passed and the President signed into law the Food and Drug Administration Amendments Act of 2007 (FDAAA). Notably, FDAAA mandated the establishment of updated labeling standards for pet food but did not address labeling of other animal feed or human food. FDAAA Section 1002(a) provided:

[T]he Secretary of Health and Human Services ... , in consultation with the Association of American Feed Control Officials and other relevant stakeholder groups, including veterinary medical associations, animal health organizations, and pet food manufacturers, shall by regulation establish—

...

(3) updated standards for the labeling of pet food that include nutritional and ingredient information.

Both the Food and Drug Administration (FDA) under federal law and regulations, and state feed control officials under individual state authority, regulate animal feed, including pet food. Both FDA and the states are members

of the Association of American Feed Control Officials (AAFCO), which, among other things, promulgates model laws and regulations for animal feed and pet food labeling. Those model regulations include pet food labeling rules after which many states have fashioned their own state labeling regulations. The state regulations, in conjunction with federal regulations in 21 C.F.R. Part 501, encompass the requirements for pet food labeling.

Pet food labels differ from those for human food in a number of important respects. Unlike human foods, pet food labels do not contain a standardized Nutrition Facts Box, and FDA's regulations currently have no specific requirements regarding how to provide nutrition information; these requirements come entirely from state regulations. Instead, the AAFCO model pet food regulations require pet food labels to bear a "Guaranteed Analysis," which must list particular guarantees in a particular order, but which otherwise does not have a prescribed format and therefore may vary from label to label in appearance and location.<sup>1</sup> For complete and balanced pet foods, as



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distinguished from products such as vitamin or mineral supplements, the Guaranteed Analysis must list minimum amounts of “crude protein” and “crude fat,” maximum amounts of “crude fiber” and moisture, and can optionally guarantee “ash” as well as other nutrients. It seems a pretty safe bet that consumers do not know what “crude protein,” “crude fat,” “crude fiber,” or “ash” are or how much of each their pet should (or should not) eat.

The Model Pet Food regulations also require that all ingredients appear in descending order by weight.<sup>2</sup> This creates another problem in that consumers are unfamiliar with a number of the ingredients used in pet food—as even many vitamins

and minerals included to balance the diet and support health can have lengthy chemical names—and can find the ingredient statement to be incomprehensible. The fact that many pet food products contain a long list of ingredients only exacerbates the problem.

The AAFCO model pet food labeling regulations date back to the mid-1960s and began as “Statements for Uniform Interpretation and Policy,” which served as guidance to state feed control officials and pet food manufacturers.<sup>3</sup> These statements covered a few requirements for ingredient listing and pet food naming. Otherwise, pet food labels were expected to comply with the then-extant labeling requirements for other animal feed products.<sup>4</sup> The

Pet Food Institute, a trade association for the pet food industry, worked with AAFCO to establish the first AAFCO Model Pet Food Regulations, which initially appeared as a tentative entry in the 1968 AAFCO OP.<sup>5</sup> Those tentative model rules contained the requirement that crude protein, crude fat, and crude fiber guarantees appear on the label.<sup>6</sup> The model rules had been adopted formally by the time the 1969 AAFCO OP was published.<sup>7</sup>

While these new model pet food regulations and the resulting standardization represented a significant improvement over the earlier guidance models, and although the regulations have been amended a number of times since, some of the original, nearly 50-year-old

## CURRENT INGREDIENT STATEMENT with grouped Vitamins and Minerals

### Ingredients:

CHICKEN, CHICKEN BY-PRODUCT MEAL, BREWERS RICE, GROUND BARLEY, GROUND SORGHUM, PORK MEAT & BONE MEAL, ANIMAL FAT (PRESERVED WITH MIXED TOCOPHEROLS), PEAS, EGG PRODUCT, NATURAL FLAVOR, OATS, SALT, DRIED APPLES, DRIED CRANBERRIES, DRIED CARROTS, POTASSIUM CHLORIDE, MIXED TOCOPHEROLS (A PRESERVATIVE), MINERALS (ZINC SULFATE, FERROUS SULFATE, ZINC OXIDE, COPPER SULFATE, MANGANESE OXIDE, SODIUM SELENITE, CALCIUM IODATE, COBALT CARBONATE), VITAMINS (VITAMIN E SUPPLEMENT, VITAMIN A SUPPLEMENT, BIOTIN, d-CALCIUM PANTOTHENATE, VITAMIN B12 SUPPLEMENT, THIAMINE MONONITRATE, PYRIDOXINE HYDROCHLORIDE, MENADIONE SODIUM BISULFITE COMPLEX (SOURCE OF VITAMIN K ACTIVITY), RIBOFLAVIN SUPPLEMENT, FOLIC ACID, NIACIN, VITAMIN D3 SUPPLEMENT).

## PROPOSED INGREDIENT STATEMENT

### Ingredients:

CHICKEN, CHICKEN BY-PRODUCT MEAL, BREWERS RICE, GROUND BARLEY, GROUND SORGHUM, PORK MEAT & BONE MEAL, ANIMAL FAT (PRESERVED WITH MIXED TOCOPHEROLS), PEAS, EGG PRODUCT, NATURAL FLAVOR

CONTAINS LESS THAN 2% OF EACH OF THE FOLLOWING: OATS, SALT, DRIED APPLES, DRIED CRANBERRIES, DRIED CARROTS, MIXED TOCOPHEROLS (A PRESERVATIVE)

VITAMINS: VITAMIN E SUPPLEMENT, VITAMIN A SUPPLEMENT, BIOTIN, d-CALCIUM PANTOTHENATE, VITAMIN B12 SUPPLEMENT, THIAMINE MONONITRATE, PYRIDOXINE HYDROCHLORIDE, MENADIONE SODIUM BISULFITE COMPLEX (SOURCE OF VITAMIN K ACTIVITY), RIBOFLAVIN SUPPLEMENT, FOLIC ACID, NIACIN, VITAMIN D3 SUPPLEMENT

MINERALS: ZINC SULFATE, FERROUS SULFATE, ZINC OXIDE, COPPER SULFATE, MANGANESE OXIDE, SODIUM SELENITE, CALCIUM IODATE, COBALT CARBONATE, POTASSIUM CHLORIDE

requirements remain today. Because FDAAA mandates that FDA, working with AAFCO, pet food manufacturers, and others, establish “updated standards for the labeling of pet food that include nutritional and ingredient information,” the agency, along with industry, is now reexamining pet food labeling requirements. This affords an unusual opportunity for FDA and interested stakeholders to revamp pet food labeling to be more comprehensible—and therefore more useful—to consumers. A good model to follow would seem to be the Nutrition Facts Box format on human foods, with which consumers are very familiar. Establishing a standardized Nutrition Facts Box format and location for pet food would mean the product’s nutritional information would appear in a familiar way and make it easier to find on the label. At the same time, the nutrients the manufacturer guarantees could also be reflected in more consumer-friendly terms, such as “protein,” “fat,” and “fiber,” instead of “crude protein,” “crude fat,” and “crude fiber.”

In the same way, pet food ingredient declarations can be revised to make them easier to read and understand. One way would be to categorize the ingredients into key ingredients, ingredients present at amounts of less than 2 %, vitamins, and minerals, with appropriate labels designating each group. If ingredients are so categorized, consumers can more easily understand what nutrients a particular product contains and meaningfully compare products.

Another area of the pet food label in need of an overhaul is the feeding directions section. This is particularly true as the incidence of pet obesity in

the U.S. continues to rise.<sup>8</sup> Writing accurate, user-friendly feeding directions can be a daunting task, however, as healthy adult dog weights, for example, can vary from five pounds to well over 100 pounds. Consumers often simply don’t know how much they should be feeding their pets. One solution would be to list the feeding directions in increments by weight (such as in ten-pound increments for dog food), along with a listing of the calorie requirements for pets of each weight category and the number of cups of the diet those pets should consume per day. In this case, too, mandating that the feeding directions be standardized across products could help ensure that they are understood and followed.

These kinds of relatively simple changes to pet food labels could help

consumers better understand the pet foods available to them (and thereby make more informed choices for their pets), and could help curb the pet obesity problem. Pet food manufacturers and other stakeholders should engage with FDA to have their views heard and contribute to the label update process.  $\Delta$

1. See AAFCO Regulation PF 4, AAFCO 2016 Official Publication (OP) at 141.
2. See AAFCO Regulation PF 5, AAFCO 2016 OP at 142. The federal regulation at 21 C.F.R. § 501.4(a) contains the same requirement.
3. See, e.g., AAFCO 1964 OP at 23.
4. *Id.* at 85.
5. See 1968 AAFCO OP at 27.
6. *Id.* at 28.
7. See 1969 AAFCO OP at 27.
8. See Ass’n for Pet Obesity Prevention, <http://www.petobesityprevention.org/>.

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