

Chapter 3

Pet food safety controls in Australia

3.1 This chapter provides a more comprehensive overview of the main controls in place with regard to pet food safety in Australia. It includes a discussion of the differences between state and territory laws, as well as the interaction with import and export regulation, consumer law, and laws pertaining to therapeutic and medicinal goods. An overview of international regulatory frameworks for pet food is also provided.

Self-regulatory model

3.2 Australia's pet food industry is self-regulated against a voluntary Australian Standard for pet food manufacturing and marketing. The standard is administered by the PFIAA through a Letter of Exchange Agreement with DAWR. The agreement is audited on an annual basis by the DAWR Compliance Integrity Unit to ensure adequacy for export arrangements with overseas markets.¹ This arrangement is similar to that adopted by the rendering industry.²

3.3 It is worth noting that the PFIAA has no staff, and consists of one part-time executive manager who provides all services relating to the administration of the standard. It also has an unpaid executive committee (described as 'honorary volunteers') drawn from industry:

Under that [standard certification] process, we provide documentation to auditors and companies. We answer inquiries regarding AS 5812 process and requirements. We do assessment of returned audit summaries—they're assessed by me, and then I personally issue those certificated to the companies and send copies to the government for companies that are exporters. I maintain the register of registered companies. I maintain a register of calendar-of-audit anniversaries...³

3.4 The Australian Standard applies to both domestic and imported manufactured pet food products. In order to prevent the introduction of foreign animal diseases, imported products are also subject to official animal and plant biosecurity risk assessments and associated import requirements.

3.5 Although compliance with the Australian Standard is encouraged, it is not mandatory. Companies wishing to comply and receive accreditation under the standard must undergo assessments conducted by an independent, qualified auditor.

1 Pet Food Industry Association of Australia, *Submission 130*, p. 5.

2 In their submission to the inquiry, the Australian Renderer's Association noted that, as part of its letter of exchange with DAWR, it has now removed itself from the management of its accreditation program and engaged a third party auditor to take on this role. Source: Australian Renderers' Association, *Submission 15*, p. 2.

3 Mr Duncan Hall, Pet Food Industry Association of Australia, *Committee Hansard*, 28 August 2018, pp. 25–26.

The auditor's role is to inspect the manufacturing premises and assess conformance with processes and labelling, as specified in the Australian Standard. The annual audit and accreditation program administered by the PFIAA includes:

- certification issued to members on receipt of the audit report, signed by an approved third party auditor;
- listing of accredited members on PFIAA's website; and
- approved use of AS 5812 compliance on marketing materials and products.⁴

3.6 As the Australian Standard is voluntary, it recognises that manufacturers may be able to achieve the same quality assurance through alternative means. However, all processes, whether achieved through the provisions of the standard, or an alternative, must be validated against a Hazard Analysis and Critical Control Points (HACCP) quality assurance system.⁵

Compliance with the Australian Standard – Accreditation and audit procedures

3.7 As previously noted, the PFIAA estimated that 95 per cent of prepared pet food (by volume) sold in Australia is made by its members. Its membership consists of 63 companies, including 29 manufacturing members, nine marketing members, and 25 allied industry members.⁶ As part of its statement of purpose, the objective of PFIAA is to 'promote the prepared pet food industry in general and the interests of the members of the Association', amongst other things.⁷

3.8 Under the current arrangements, PFIAA provides oversight of the pet food industry. A key element of this oversight is the accreditation system provided to members which (by way of a third party independent audit) are able to demonstrate compliance with the Australian Standard. Once compliance is demonstrated, member manufacturers are entitled to declare their certification, and are listed on the PFIAA website.⁸

4 Australian Bureau of Agricultural and Resource Economics and Sciences, *Pet food safety in Australia: economic assessment of policy options*, July 2012, p. 10.

5 Hazard Analysis Critical Control Point (HACCP) is an international methodology used to recognise and minimise food safety risks during the production or packaging process. The seven key principles of the system include: hazard analysis, critical control points, critical limits, critical control monitoring, corrective action, procedures and record keeping. Source: Australian Institute of Food Safety, *Everything You Need to Know About HACCP*, <https://www.foodsafety.com.au/resources/articles/everything-you-need-to-know-about-haccp/> (accessed 20 July 2018).

6 Each manufacturing site is audited as a separate 'member' of the PFIAA. In total, there are 29 manufacturing 'members', owned by 26 companies. Source: Pet Food Industry Association of Australia, answers to questions on notice, 28 August 2018 (received 10 September 2018).

7 Pet Food Industry Association of Australia, *Statement of Purpose*, <https://www.pfiaa.com.au/About/StatementofPurpose.aspx> (accessed 14 September 2018).

8 Pet Food Industry Association of Australia, *Submission 130*, p. 5.

3.9 The AVA explained that the PFIAA's compliance certification is similar to the Heart Foundation tick, in that it operates as a means of gaining a market 'tick of approval'.⁹

3.10 Further, the committee was told that in circumstances where a breach of the standard is found, the PFIAA is required to report to DAWR under a Letter of Exchange agreement. Notification must occur within 24 hours of the breach being detected and the manufacturer is required to correct the critical defect prior to recertification.¹⁰

3.11 In addition to the audit requirements set out by the PFIAA, the committee was informed that individual manufacturing companies, particularly those with overseas affiliations, may conduct additional assessments of their pet food. At a public hearing in Sydney, Mars Petcare told the committee that it applies a globally consistent recall policy and process to all its business units around the world. In Australia, it is validated and accredited by Lloyd's Register Quality Assurance.¹¹

3.12 Nestlé also advised the committee about the 3500 quality and safety tests it conducts on the factory floor each day. These include nutritional analysis, online testing, post-production testing and hygiene checks for personnel.¹² Both major manufacturers – Nestlé and Mars Petcare – noted that the recall process applied to their products is the same for both pet food and human food.¹³

3.13 In its submission to the inquiry, the PFIAA further clarified that that it was currently in the process of revising its auditing and document management processes for Australian Standard accreditation. According to the PFIAA, this work is being done in partnership with an external not-for-profit company and 'has the potential to enhance' the current accreditation process. The changes, to be implemented by late 2018, are expected to include a requirement for auditors to be Exemplar Global accredited, and audit operations to be JAS-ANZ accredited.¹⁴

State and territory legislation

3.14 As state and territory governments retain primary responsibility for food safety regulation, there are some variances in how the regulation of pet food is administered across jurisdictions.¹⁵ One reason for this is that pet meat was once subject to a different Australian standard—the Standard for the Hygienic Production

9 Australian Veterinary Association, *Submission 68*, p. 4.

10 Duncan Hall, Pet Food Industry Association of Australia, *Committee Hansard*, 28 August 2018, p. 33.

11 Mr Barry O'Sullivan, Mars Petcare Australia, *Committee Hansard*, 29 August 2018, p. 28.

12 Ms Michelle Lang, Nestlé Australia Ltd, *Committee Hansard*, 29 August 2018, p. 35.

13 Dr Roger Bektash, Mars Petcare Australia, *Committee Hansard*, 29 August 2018, p. 32; Ms Nicole Battistessa, Nestlé Australia Ltd, *Committee Hansard*, 29 August 2018, p. 34.

14 Pet Food Industry Association of Australia, *Submission 130*, pp. 2, 9.

15 Standing Council on Primary Industries, *Managing the safety of domestically produced pet meat, and imported and domestically produced pet food*, January 2012, p. 21.

of Pet Meat (pet meat standard) developed through the Primary Industry Standards Committee Technical Report 88. As noted in Chapter 1, pet meat was incorporated into the pet food standard in November 2017.

3.15 While state and territory laws aim to ensure the safety of meat for human consumption, the legislation also includes provisions which consider the directing of animal products from the human food supply chain into the pet meat/food supply chain. Therefore, the requirement to label raw pet meat as 'unfit for human consumption' is consistent across all jurisdictions. However, no single jurisdiction has specific legislation in place to deal with manufactured pet food.

3.16 Pet food labelling requirements are regulated in some jurisdictions. However, with the exception of Queensland, no other jurisdiction has provisions in place to require manufacturers to state the actual ingredients or methods of processing pet food products on their product labels.¹⁶

3.17 As part of its 2012 review of pet food controls, the PFCWG received statements from state and territory members regarding a possible regulatory approach to processed pet food. An overview of these statements is provided below:

Queensland

3.18 A statutory agency, Safe Food Production Queensland, regulates the primary production and processing of meat, eggs, dairy, seafood and horticulture in Queensland through the Queensland *Food Production (Safety) Act 2000* and Food Production (Safety) Regulation 2014. The Regulation sets out the Food Safety Scheme for Meat and Meat Products, and the Dairy Food Safety Scheme, both of which reference pet food and set standards for labelling.¹⁷

3.19 The Food Safety Scheme for Meat and Meat Products requires that all meat must be handled and processed to a human consumption standard, until such time that a decision is made to divert the meat to the animal consumption supply chain.¹⁸ In its submission to the inquiry, Safe Food Production Queensland reiterated that there is 'no "second class system" or less stringent standard' for producing meat for animal consumption, as opposed to meat for human consumption, in its jurisdiction.¹⁹

3.20 As a member of the PFCWG in 2009–12, Safe Food Production Queensland stated that it would not enforce the pet meat standard, as it conflicts with the state regulation already in place.²⁰

16 Standing Council on Primary Industries Pet Food Controls Working Group, *Enclosure 7: Summary of Regulation Specific for Pet Meat and Pet Food in Australia*, January 2012, p. 2.

17 Safe Food Production Queensland, *Submission 85*, [pp. 1–2].

18 Standing Council on Primary Industries Pet Food Controls Working Group, *Enclosure 10: State and territory Pet Food Controls Working Group members statements*, January 2012, p. 3.

19 Safe Food Production Queensland, *Submission 85*, [p. 1].

20 Standing Council on Primary Industries Pet Food Controls Working Group, *Enclosure 10: State and territory Pet Food Controls Working Group members statements*, January 2012, p. 3.

Victoria

3.21 In Victoria, the Meat Industry Regulations 2015 establish labelling requirements for pet food packaging. As per AS5812:2017, pet food that is prepared for retail sale must be labelled as 'pet food only', and display a picture of the whole of the body, or the head, of a dog or a cat. No additional regulations exist for the manufacture of meat used in pet foods.²¹

3.22 In its statement to the PFCWG, the Victorian Department of Primary Industries emphasised the need to consider the impact of a regulated approach to pet food safety, particularly for businesses. It suggested that a business impact assessment be undertaken, as well as a national regulation impact statement, in accordance with the Commonwealth Government's Office of Best Practice Regulation.²²

New South Wales (NSW)

3.23 The NSW Food Regulation 2015 makes a number of references to the pet meat standard. Knackeries are required to comply with the relevant standards specified in the pet meat standard, as are animal food processing plants, animal food field depots, animal food vans, and animal food field harvesting vans. In addition, general operational hygiene requirements also adhere to those set out in the pet meat standard.²³

3.24 In response to the PFCWG, the NSW Department of Primary Industries advised that a critical review process was required before any new regulatory measures for pet food were initiated.²⁴

Western Australia

3.25 According to the Western Australian Department of Health, pet meat manufactured and distributed in Western Australia is produced and processed under lower standards than food produced for human consumption. Pet meat must therefore be clearly labelled as 'Pet Meat – Not For Human Consumption'. The food regulations also require pet meat to be stained with blue dye to distinguish it from meat for human consumption.²⁵

21 *Meat Industry Regulations 2015* (Victoria), http://classic.austlii.edu.au/au/legis/vic/consol_reg/mir2015287/ (accessed 4 September 2018).

22 Standing Council on Primary Industries Pet Food Controls Working Group, *Enclosure 10: State and territory Pet Food Controls Working Group members' statements*, January 2012, p. 2.

23 *Food Regulation 2015* (New South Wales), <https://www.legislation.nsw.gov.au/regulations/2015-622.pdf> (accessed 4 September 2018).

24 Standing Council on Primary Industries Pet Food Controls Working Group, *Enclosure 10: State and territory Pet Food Controls Working Group members' statements*, January 2012, p. 1.

25 WA Department of Health, *Pet meat: Food Act 2008 fact sheet 13*, https://ww2.health.wa.gov.au/Articles/N_R/Pet-meat (accessed 9 July 2018). Also see: *Food Regulations 2009* (Western Australia), https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_s41122.html (accessed 4 September 2018).

3.26 Western Australian representatives on the PFCWG stated that there is a need for a more consistent approach to the management of pet food contamination. They acknowledged that, although the standard was likely to be a good marketing tool for pet food manufacturers, a self-regulated industry would not be able to address problems associated with imported goods. They also drew attention to the fact that imported products could not be regulated without established domestic pet food regulation.

3.27 Although conscious of the need for industry support and funding, Western Australia put forward the view that a recall framework would likely decrease the number of pets affected by pet food related disease/intoxication.²⁶

Tasmania

3.28 In Tasmania, the Primary Produce Safety (Pet Food) Regulations 2014 require commercial pet food producers to be accredited. Producers that slaughter animals or birds, or process carcasses for the production of pet food are included in this category. Accredited producers must comply with relevant standards; hold an accreditation for their business which covers the supply, production or processing of pet food; and prepare and implement an approved food safety program which is audited at least once a year.²⁷

3.29 In its statement to the PFCWG, Tasmanian representatives noted that self-regulation or co-regulation of the pet food industry is preferred. The need for a central reporting point to capture data on adverse pet food events, and the need for an efficient recall framework, were also highlighted.²⁸

Other jurisdictions

3.30 The governments of South Australia, the Northern Territory, and the Australian Capital Territory (ACT) did not provide member statements to the Pet Food Controls Working Group. With the exception of the ACT, these jurisdictions require adherence to the existing pet meat standard.²⁹

Related laws

3.31 As part of its inquiry, the committee also considered the numerous laws that interact with the process of manufacturing, supplying, and selling pet food. These

26 Standing Council on Primary Industries Pet Food Controls Working Group, *Enclosure 10: State and territory Pet Food Controls Working Group members' statements*, January 2012, pp. 1–2.

27 Australian Government, *Accreditation of a Pet Food Producer – Tasmania*, <https://ablis.business.gov.au/service/tas/accreditation-of-a-pet-food-producer/37096> (accessed 9 July 2018).

28 Standing Council on Primary Industries Pet Food Controls Working Group, *Enclosure 10: State and territory Pet Food Controls Working Group members' statements*, January 2012, p. 1.

29 *Primary Produce (Food Safety Schemes) (Meat) Regulations 2017* (South Australia), [https://www.legislation.sa.gov.au/LZ/C/R/PRIMARY%20PRODUCE%20\(FOOD%20SAFETY%20SCHEMES\)%20\(MEAT\)%20REGULATIONS%202017.aspx](https://www.legislation.sa.gov.au/LZ/C/R/PRIMARY%20PRODUCE%20(FOOD%20SAFETY%20SCHEMES)%20(MEAT)%20REGULATIONS%202017.aspx) (accessed 4 September 2018); *Meat Industries Regulations 2011* (Northern Territory), <https://legislation.nt.gov.au/Legislation/MEAT-INDUSTRIES-REGULATIONS> (accessed 4 September 2018).

include laws pertaining to importation and biosecurity, consumer goods, food safety, product safety, therapeutic and medicinal foods and pet treats.

Importation

3.32 The regulatory requirements imposed by DAWR under the *Biosecurity Act 2015* regarding imported pet food vary depending on the level of quarantine risk posed by the product. The biosecurity assessment is made as part of the import permit application process, and is based on the ingredients contained in the pet food, the country of origin and manufacture, and the heat treatment applied to the product.

3.33 According to DAWR, assessments of biosecurity risk in imported pet food products include consideration of:

- regulatory oversight of the overseas manufacturer;
- quality systems employed by the manufacturer and the components of these systems that contribute to biosecurity risk management;
- biological ingredients used to manufacture products;
- biological materials held on site but not used to manufacture products; and
- treatments applied during manufacture which manage contamination risks.³⁰

3.34 Following an assessment of relevant documents, an on-site audit may be conducted. The objective of this type of audit is to verify that the manufacturer effectively embeds all relevant aspects of their quality management system into their production processes, thereby ensuring that the product exported to Australia meets requirements.³¹

3.35 Issues such as product shelf life, nutritional completeness, contamination with non-biological foreign bodies, or chemical residues are not taken into consideration during the department's biosecurity risk assessment.³²

Exportation

3.36 DAWR is also responsible for providing certification for pet food products destined for export in accordance with the *Export Control Act 1982* and supporting export regulations. The regulations differ for pet foods, according to the type of food and destination. The department oversees a range of regulatory activities for prescribed and non-prescribed pet foods for export which may include:

- declarations of Australia's freedom from serious livestock diseases;
- an Australian Government certification of safety, labelling or chemical residue matters;
- establishment auditing and inspection;

30 Department of Agriculture and Water Resources, *Submission 31*, p. 2.

31 Department of Agriculture and Water Resources, *Answers to questions taken on notice*, 29 August 2018, p. 1.

32 Department of Agriculture and Water Resources, *Submission 31*, p. 2.

- verifying pre-export testing; and
- providing export documentation, which may include an export certificate.³³

3.37 Some export markets require demonstrated compliance with the Australian Standard for the Manufacturing and Marketing of Pet Food (AS 5812). In these cases, DAWR will monitor the exporter's compliance with the standard by overseeing and auditing a third party accreditation system in partnership with the PFIAA.³⁴

Consumer goods

3.38 Australian Consumer Law provides the relevant Minister with the authority to order a compulsory recall of a consumer good if a mandatory standard is not met or the suppliers of the goods have not taken 'satisfactory action to prevent those goods causing injury to any person'. However, the policy does not make mention of the remedies available when injury is inflicted upon a pet, such as if a pet food is found to be mouldy or contaminated.³⁵

3.39 In addition to the problems associated with pet food being considered a consumer product, there are also complications with regard to the way pets themselves are considered under the law. Australian Consumer Law covers the purchase of a pet in the same way that other consumer goods are covered. This requires the seller to ensure the pet is of acceptable quality, fit for purpose, and accurately described. If there is a problem with a pet, such as a terminal or serious health issue, the consumer is entitled to particular remedies.³⁶ However, submitters pointed out that the law as it stands does not operate in a way that is logical to consumers. Ms Sarah Agar from CHOICE explained:

When you buy a toaster, if it's faulty, you can take it back to the store and get a refund, and that's a good remedy, but, when your pet food is faulty, your pet can die, and there are not appropriate remedies in place for consumers and pet owners who are in that situation. People should be able to trust that the pet food they buy is safe and won't harm their pets, but we can see that this currently isn't the case.³⁷

3.40 Notwithstanding these limitations, Australian Consumer Law does:

- contain prohibitions in relation to false and misleading statements (which extend to labelling, advertising and consumer guarantees made in relation to pet food products);

33 Department of Agriculture and Water Resources, *Submission 31*, p. 3.

34 Department of Agriculture and Water Resources, *Submission 31*, p. 3.

35 CHOICE, *Submission 143*, [pp. 2–3].

36 Western Australian Department of Mines, Industry Regulation and Safety, *A Consumer's guide to buying a pet*, https://www.commerce.wa.gov.au/sites/default/files/atoms/files/aconsumersguidetobuyingapet_0.pdf (accessed 19 September 2018).

37 Ms Sarah Agar, CHOICE, *Committee Hansard*, 29 August 2018, pp. 1–2.

- require that products are fit for purpose (and that manufacturers or suppliers in breach of these provisions may be subject to relevant penalties and remedies); and
- set out a framework for voluntary recall of products by manufacturers or suppliers.³⁸

Therapeutic and medicinal foods

3.41 Foods that are designed to help pets with certain medical conditions, such as kidney disease and diabetes, but do not contain any medicine, are considered therapeutic foods. Previously, the APVMA regulated therapeutic pet foods and conducted testing to verify the claims made by pet food manufacturers and to ensure that the evidence regarding the benefits of the food was sound. However, as part of changes introduced in 2015, therapeutic pet foods now fall under the voluntary standard for pet food and are no longer regulated separately.

3.42 The APVMA does however retain regulatory oversight over supplements and medicines consumed by pets. These include pharmaceutical products, complementary medicines and supplements (e.g. vitamins or glucosamine), and pesticides (e.g. worm and flea treatments).³⁹

Other industries

Rendering industry

3.43 The rendering industry is self-regulated under a Code of Practice first developed in 1996 and most recently reviewed in 2017 through the Primary Industry Ministerial Council and the Primary Industries Standing Committee.⁴⁰

3.44 To build on the Code of Practice, the rendering industry is now developing the code into a recognised Australian Standard for administration by the Australian Meat Regulators Group.⁴¹

3.45 A number of state and territory regulators enforce the rendering standards through the Australian Standard for the Hygienic Rendering of Animal Products. For example, the NSW Food Authority requires rendering plants to meet the relevant standards, apply for a licence, and consent to routine inspections or audits.⁴²

38 The full text of the Australian Consumer Law is set out in Schedule 2 of the *Competition and Consumer Act 2010*, and can be found at website: <http://consumerlaw.gov.au/the-australian-consumer-law/legislation/> (accessed 25 September 2018).

39 CHOICE, *Pet food regulation*, <https://www.choice.com.au/outdoor/pets/products/articles/pet-food-regulation> (accessed 10 July 2018).

40 Australian Renderers' Association, *Submission 15*, p. 1.

41 Australian Renderers' Association, *Submission 15*, p. 2.

42 NSW Food Authority, *Rendering plants*, <http://www.foodauthority.nsw.gov.au/industry/meat/rendering-plants> (accessed 11 September 2018).

Feed industry

3.46 The Feed Ingredients and Additives Association of Australia (FIAAA) is the peak industry organisation representing suppliers of feed ingredients and additives. It provides 'stewardship' to the industry by administering the FIAAA Code of Practice, a formal recall procedure, and acting as a contact point for the FAMI-QS scheme, which is an internationally recognised feed certification system.⁴³

3.47 With regard to the pet food industry, the PFIAA guidelines recommend adoption of the FIAAA Code of Practice, which is referred to in the pet food standard. Additionally, the Stock Feed Manufacturers Council of Australia automatically accepts FIAAA accredited suppliers on the basis that they have fulfilled the APVMA's requirements on suppliers for self-assessment.⁴⁴

3.48 The FIAAA is working with DAWR on a proposal for a National Feed Standard to underpin the existing Code of Practice. The FIAAA stated in this regard:

While the industry does not want any unnecessary increase in regulation, a standard would be a means of addressing risks along the supply chain to both pet and human food.⁴⁵

3.49 While concluding that 'it is not necessary for regulation to be complicated', the FIAAA suggested that there 'may be benefit in strengthening self-regulation' without adding to the regulatory burden.⁴⁶

3.50 Having explored the suite of legislation and regulation impacting on the pet food industry in Australia, the remainder of this chapter will focus on regulatory frameworks for pet food around the world.

International models of pet food regulation

3.51 Evidence provided by submitters drew the committee's attention to the operation of regulatory frameworks in the US, Europe, and Japan. The common factors across these systems include the existence of an established regulator of pet food, reporting and tracking systems, and requirements for business and licencing permits.

United States

3.52 In the United States, the Food and Drug Administration (USFDA) has responsibility for regulating pet food. Under the *Food, Drug and Cosmetic Act*, all food for animals must be safe to eat, produced under sanitary conditions, contain no harmful substances, and be truthfully labelled. Some states also regulate the licencing

43 Feed Ingredients and Additives Association of Australia, *Submission 92*, pp. 1–3.

44 Feed Ingredients and Additives Association of Australia, *Submission 92*, p. 2.

45 Feed Ingredients and Additives Association of Australia, *Submission 92*, p. 3.

46 Feed Ingredients and Additives Association of Australia, *Submission 92*, p. 3.

of manufacturers and labelling of pet food in accordance with to their respective state laws and rules.⁴⁷

3.53 Like the PetFAST system in Australia, the USFDA administers the Pet Event Tracking Network (PETNet), which allows the USFDA, as well as federal and state agencies, to share information about pet food related incidents to determine a regulatory response. The purpose of PETNet is to prevent or limit adverse effects associated with harmful pet food products.⁴⁸

3.54 The USFDA has powers to investigate customer complaints and conduct inspections of pet food business facilities. Business operators can have their registration suspended if their products are found to pose a serious health threat. The USFDA can also enforce recalls if pet foods are found to be harmful.

3.55 In the US, pet food recalls are covered under the same regulatory process as human food through the Code of Federal Regulations, Title 21, Part 7. Recalls are categorised into Class I, II or III, based upon the severity or health implication. Companies are legally required to provide notification of a Class I recall event through the Reportable Food Registry, which usually initiates contact with the USFDA and results in a subsequent recall of the product in question.⁴⁹

3.56 There are three types of recalls. Recalls can be conducted on the initiative of a company, by USFDA request, or by order under statutory authority. The USFDA must first establish that there is a 'reasonable probability' that the food is adulterated or misbranded, and that the use of, or exposure to, such food will cause serious adverse health consequences to humans or animals.⁵⁰

3.57 According to some submitters, the mere existence of a recall authority has encouraged US manufacturers to pull products from shelves before government intervention is required.⁵¹ In 2018 alone, more than 20 pet foods were recalled from American retail shelves, with the large majority of them initiated by the manufacturers. By way of comparison, there have been only two voluntary recalls of pet food in Australia in two years.⁵²

47 United States Food and Drug Administration, *Pet Food*, <https://www.fda.gov/animalveterinary/products/animalfoodfeeds/petfood/default.htm> (accessed 23 July 2018).

48 United States Food and Drug Administration, *PETNet: An Information Exchange for Pet Food Related Incidents*, <https://www.fda.gov/animalveterinary/products/animalfoodfeeds/petfood/ucm278278.htm> (accessed 3 July 2018).

49 Nestlé Australia Ltd, *Submission 119*, pp. 8–9.

50 United States Food and Drug Administration, *Recalls and Withdrawals*, <https://www.fda.gov/AnimalVeterinary/SafetyHealth/RecallsWithdrawals/default.htm> (accessed 28 June 2018). Also see: Mars Petcare Australia, *Submission 106*, p. 7.

51 See, for example: Dr Andrew Spanner, *Submission 63*, [pp. 2–3]; Ms Teresa Tassone, *Submission 89*, [p. 6] and Nestlé Australia Ltd, *Submission 119*, pp. 8–9.

52 Angelique Donnellan, 'Having a pet die is an absolutely terrible thing': Senate announces inquiry into pet food industry', *ABC News*, 20 June 2018, <http://www.abc.net.au/news/2018-06-20/inquiry-to-be-held-into-pet-food-industry/9890398> (accessed 26 June 2018).

3.58 In addition to these measures, direct consumer reporting is available through an online portal (www.safetyreporting.hhs.gov).⁵³ According to Nestlé, this mechanism has proven to be a 'measured approach' that can be implemented 'at reasonable cost' and can 'help sustain both transparency and pet owner confidence'. The portal also allows the USFDA to maintain visibility of potential problems in order to take action before they become widespread.⁵⁴

3.59 While the USFDA has federal regulatory authority, pet food and treats are also regulated in individual states by respective departments of agriculture. To facilitate uniform interpretation and enforcement of state regulations, many of the states follow the model laws and regulations set out by the Association of American Feed Control Officials (AAFCO).

3.60 Through a memorandum of understanding with the USFDA, AAFCO provides definitions for all pet food and animal feed ingredients and sets nutrient profiles for dogs and cats. The profiles are updated periodically, with the last revision occurring in 2016. Under the AAFCO guidelines, pet food manufacturers can achieve nutritional adequacy by meeting its Dog and Cat Food Nutrient Profile standards; or by conducting feeding trials in accordance with standardised feed testing methodology.⁵⁵

3.61 As an organisation of state and federal regulators, the AAFCO provides a forum for control officials, industry associations and consumer groups to meet in partnership and discuss issues such as:

- uniform and equitable laws;
- standards and regulations;
- definitions and enforcement policies for manufacturers; and
- labelling, distribution and sale of pet food products.⁵⁶

3.62 AAFCO remains the recognised information source for pet food labelling standards, ingredient definitions, official terminology, and standardised feed testing methodology.⁵⁷ The Pet Food Committee of AAFCO meets biannually to monitor, review and recommend appropriate revisions to the AAFCO Official Publication – the

53 United States Food and Drug Administration, *Safety Reporting Portal*, <https://www.safetyreporting.hhs.gov/SRP2/en/Home.aspx?sid=58cf7d10-58b8-45ef-ba4f-dea63559e563> (accessed 6 September 2018).

54 Nestlé Australia Ltd, *Submission 119*, p. 9.

55 Pet Food Industry Association of Australia, *Submission 130 – Attachment 1*, p. 4.

56 Association of American Feed Control Officials, *Welcome to AAFCO*, <https://www.aafco.org/> (accessed 18 July 2018).

57 Pet Food Industry Association of Australia, *Submission 130 – Attachment 1*, pp. 2–3.

founding document for animal feed regulation in the US, which is now officially recognised in the Australian pet food Standard.⁵⁸

Europe

3.63 Europe operates a co-regulated system for pet food, whereby industry works with government and other stakeholders to develop requirements for the manufacturing of pet food.

3.64 Pet food safety is overseen by the European Commission Directorate General for Health and Food Safety, and Regulation (EC) No. 882/2004 provides an official control to ensure the verification of compliance with animal feed and food law, animal health, and animal welfare rules. Additional regulations covering the sample and analysis of feed for control purposes are also in place.⁵⁹

3.65 The European Commission requires pet food businesses engaged in the production, processing, storage and distribution of pet food products to register with the relevant authority in their country. A set of hygiene and quality control requirements regarding the manufacturing facility, equipment, personnel, record keeping, complaints handling and recall of products must be met.⁶⁰ If the manufacturer knows or 'has reasons to believe' that a product is unsafe, a recall of the product in question is mandatory.⁶¹

3.66 The EU Rapid Alert System for Food and Feed (RASFF) provides an early warning and reporting system for human and animal food products. However, unlike PetFAST alerts, which are only available to members of the PFIAA and AVA, RASFF alerts are available to the public and are published on a website.⁶² In 2016, RASFF reported over 14 alert notifications of serious health risks related to pet food products; 20 border rejection notifications; eight information notifications; and eight follow-up notifications.⁶³

58 Association of American Feed Control Officials, *Pet Food Committee*, <https://www.aafco.org/Regulatory/Committees/Pet-Food> (accessed 18 July 2018).

59 Regulation (EC) No. 882/2004 has been in force since 17 June 2004, and will be repealed and replaced by Regulation (EU) 2017/625 on 13 December 2019. The new regulation seeks to simplify the overall legislative framework for the agri-food chain. Source: European Commission, *Animal Feed*, https://ec.europa.eu/food/safety/animal-feed_en (accessed 23 July 2018).

60 FEDIAF, *Safety*, <http://www.fediaf.org/self-regulation/safety.html> (accessed 4 September 2018).

61 Mars Petcare Australia, *Submission 106*, pp. 7–8.

62 European Commission, *RASFF – Food and Feed Safety Alerts*, https://ec.europa.eu/food/safety/rasff_en (accessed 4 September 2018).

63 European Commission, *RASFF Annual Report 2016*, June 2017, pp. 6–7, 41. Products subject to an 'alert notification' have been withdrawn or are in the process of being withdrawn from the market. A 'border rejection notification' is issued if a food product is refused entry to the European Union for reason of a risk to human or animal health. An 'information notification' or 'follow-up notification' refers to a concern raised about a food product that does not require rapid action.

3.67 To avoid pet food safety incidents, pet food companies in Europe are legally required to inform the relevant government authority of any adverse events. The government authority then informs the European Commission of such events and of instances where non-compliance is discovered. While the government authority of each country (typically the department of agriculture) can force mandatory product recalls, the European Commission cannot.⁶⁴

3.68 The European Pet Food Industry Federation, known as FEDIAF, has a complementary role in the regulatory system. The European Commission recognises and endorses the standard developed by FEDIAF with regard to the manufacture of safe pet foods.⁶⁵ FEDIAF also monitors RASFF alerts and can be involved in discussions with European authorities if the alert is relevant to the pet food industry. It may then work with the European Commission to develop a workable outcome for the industry.⁶⁶

3.69 Additional nutritional information about pet food is available through FEDIAF's 'Guidelines for Complete and Complementary Pet Food for Cats and Dogs' publication. Although the guidelines are neither mandatory nor enforced, they are considered a complementary resource for manufacturers and consumers.⁶⁷

Japan

3.70 Following a series of safety incidents involving melamine contamination of dog food, the Japanese Government passed the *Law for Ensuring the Safety of Pet Food* in June 2008.⁶⁸ The law requires pet food manufacturers and importers to notify the Ministry of Agriculture, Forestry and Fisheries, and the Minister of the Environment, before initiating business operations.

3.71 The responsible ministries have established standards, including requirements for the production of pet food, prevention of harmful substances and product labelling to which such businesses must adhere. On-site inspections are permitted through legislation, as is the sample testing of pet food products. If standards are not met, fines and/or imprisonment may apply.⁶⁹

64 European Commission, *Animal Feed*, https://ec.europa.eu/food/safety/animal-feed_en (accessed 23 July 2018).

65 Mars Petcare Australia, *Submission 106*, pp. 7–8. Also see: European Commission, *Guides to Good Practice*, https://ec.europa.eu/food/safety/animal-feed/feed-hygiene/guides-good-practice_en (accessed 4 September 2018).

66 Nestlé Australia Ltd, *Submission 119*, p. 8.

67 FEDIAF, *Nutritional Guidelines*, <http://www.fediaf.org/self-regulation/nutrition.html> (accessed 23 July 2018).

68 *Law for Ensuring the Safety of Pet Food (Law No. 83 of 2008)* (Japan), 18 June 2018, http://www.famic.go.jp/ffis/pet/obj/sub1e_houritu.pdf (accessed 4 September 2018).

69 Legislative Council of the Hong Kong Special Administrative Region of the People's Republic of China, 'Information Note: Regulation of pet food in selected overseas places', *IN02/15–16*, pp. 5–6.

Singapore

3.72 In Singapore, the Agri-Food and Veterinary Authority has responsibility for regulation of human and animal food. It administers a mandatory licencing scheme for local manufacturers and importers of animal feed, and imposes strict controls on imported pet food through the *Feeding Stuffs Act* (Singapore). Conditions on licencing include ensuring that pet food products are wholesome, safe for feeding, and free from prohibited substances. Licensees must also comply with product labelling requirements, maintain relevant product records, and keep facilities clean and tidy.⁷⁰

3.73 Import permits are required of all importers prior to importation of pet food products. Products containing meat or meat products are subject to additional requirements, such as a health certification provided by a veterinary professional, or certification that the product is free from biosecurity hazards and diseases. Breaches of the specified legislation can result in licence suspension, revocation of a business licence (without prior notice), fines or imprisonment.⁷¹

New Zealand

3.74 Ministerial responsibility for pet food in New Zealand is held by the Minister for Primary Industries. Under the *Agricultural Compounds and Veterinary Medicines Act 1997* (New Zealand), pet food is classed as an oral nutritional compound and must comply with a set of requirements for manufacture, sale, import, export, and use.⁷² Other requirements set out in the *Animal Products Act 1999* (New Zealand) and the *Biosecurity Act 1993* (New Zealand) may also apply.

3.75 With regard to a recall framework, the *Animal Products Act 1999* (New Zealand) states that the Director General is able to direct a recall if a product is deemed not fit for purpose, or where a product's fitness is in doubt, such as through mislabelling.⁷³

70 Agri-Food and Veterinary Authority of Singapore, *Local Manufacturing & Processing of Animal Feed*, <https://www.ava.gov.sg/explore-by-sections/pets-and-animals/bringing-animals-into-singapore-exporting/animal-feed> (accessed 6 September 2018).

71 Legislative Council of the Hong Kong Special Administrative Region of the People's Republic of China, 'Information Note: Regulation of pet food in selected overseas places', *IN02/15–16*, pp. 6–7.

72 New Zealand Food Safety, *Requirements for pet food, animal feed, and supplements*, <https://www.mpi.govt.nz/processing/pet-food-inedibles-animal-feed-and-supplements/requirements-for-pet-food-animal-feeds-and-supplements/> (accessed 4 September 2018).

73 Mars Petcare Australia, *Submission 106*, p. 4.

