



Susan Thixton <susan@truthaboutpetfood.com>

Washington Open Public Meetings violation complaint

1 message

Susan Thixton <susan@truthaboutpetfood.com>
To: dsandison@agr.wa.gov

Mon, Jan 6, 2020 at 10:54 AM

Dear Mr. Sandison,

Copied: Mr. Bob Ferguson, Attorney General

This email is to serve as a complaint to violations of the Washington Open Public Meetings Act and potential knowing and intentional violations of Washington Open Public Meetings Act should Washington Department of Agriculture participate in any manner in any future Association of American Feed Control Officials (AAFCO) meeting. This email also serves as notification of potential Freedom of Information Act/Sunshine Act violations of Washington Commercial Feed law.

AAFCO – the Association of American Feed Control Officials – is a not for profit 501 (c) (5) entity providing services to governmental agencies including, but not limited to, FDA and Washington Department of Agriculture. In public record, FDA stated in April 2019 (FDA's Final Response Letter Docket ID: FDA-2016-P-3578 Citizen Petition filed by Association for Truth in Pet Food): "AAFCO is an association of state and federal agencies". AAFCO provides evidence of their service to government within the "Purpose" statement of various AAFCO Committees. Some examples are:

- "committees for effective educational approaches in support of regulators"
- "development of uniform enforcement policies"
- "develop science- and risk-based regulations. Such regulations would support the implementation of effective inspection and compliance strategies..."

Evidence of Washington Department of Agriculture participation in AAFCO as official state business is found in Washington Commercial Feed law which states: "(1) The department shall administer, enforce and carry out the provisions of this chapter and may adopt rules necessary to carry out its purpose. In adopting such rules, the director shall consider (a) the official definitions of feed ingredients and official feed terms adopted by the association of American feed control officials and published in the official publication of that organization." And "The director may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the federal government and private associations in order to carry out the purpose and provisions of this chapter."

Further, Washington Department of Agriculture representative Ali Kashani serves on the AAFCO Board of Directors as Secretary-Treasurer, serves as Chair of AAFCO's Current Issues and Outreach Committee, serves as a member of AAFCO's Enforcement Issues Committee, serves on AAFCO's Feed and Feed Ingredient Manufacturing Committee, serves as Chair of AAFCO's Finance Committee, serves on AAFCO's Ingredient Definitions Committee, serves as Board Liaison for AAFCO's Strategic Affairs Committee, and serves as an AAFCO Investigator for Feed Terms. Washington Department of Agriculture representative Lizette Beckman serves as Co-Chair of AAFCO's Pet Food Committee, serves on the AAFCO Education and Training Committee, and serves on AAFCO's Feed Labeling Committee.

Washington Commercial Feed law adopts and administers the official definitions of feed ingredients and official feed terms written by the collective government agency members of AAFCO (further evidence of AAFCO's service to Washington Department of Agriculture), but your agency does not provide those definitions and terms as part of public record due to AAFCO's action to copyright protect shared work product of government agency members. However, there remains Attorney General's Office conclusions that "the fact that material received by a state agency may be copyrighted does not preclude the material from constituting a public record."

The Washington Open Public Meetings Act states:

"The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly."

"Public agency means: (a) Any state board, commission, committee, department, educational institution, or other state agency which is created by or pursuant to statute, other than courts and the legislature;

Governing body means the multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.

Action means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. "Final action" means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.

Meeting means meetings at which action is taken."

In November 2019, the AAFCO Board of Directors – “*as directed by the board of directors*” (which includes Washington Department of Agriculture employee Ali Kashani) - closed meetings (“*restricted access*”) to Association for Truth in Pet Food, TruthaboutPetFood.com, myself (Susan Thixton), a veterinarian, and multiple pet owners. This action put the Washington Department of Agriculture in violation of Open Meetings laws and, as such, the Department can no longer participate in any future AAFCO meeting without being subject to punitive judgement.

Washington Department of Agriculture participation in any AAFCO meeting (either attending in person or participating via phone conference) could be considered an intentional/knowing violation of federal and state Open Meeting laws (in part) due to:

- Federal or state law does not provide opportunity to close a meeting to a select few individuals;
- No public written copy of a vote to close the meeting has been publicly provided;
- No General Counsel or chief legal officer of any agency participating in AAFCO meetings has provided certification that the meeting may be closed to the public;
- Fees are charged for admission to meetings that government agency officials participate as part of their official duties preventing public observation;
- Work product from government employee members of AAFCO are not published in public record and are denied in FOIA requests;
- Pet food/animal feed labeling regulations and legal definitions are not published in public record and are denied in FOIA requests prohibiting the public from access.

As AAFCO Board of Directors – including Washington Department of Agriculture employee Ali Kashani – took action to close meetings without abiding by the federal and state legal requirements to close a meeting, violations of Open Meeting laws have been already been committed. Because AAFCO “*members*” consist solely of state and federal government employees who participate as part of their official duties, any future government employee participating in AAFCO in any manner would be in violation of state and federal open meeting laws and Sunshine Act laws. Therefore, the only remedy is Washington Department of Agriculture must withdraw from participation in AAFCO until AAFCO meets all legal requirements of state and federal Open Meeting/Sunshine Act laws.

We ask you to promptly reply to this email stating if Washington Department of Agriculture intends to participate in upcoming AAFCO meetings.

Susan Thixton

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Susan Thixton
Pet Food Consumer Advocate
TruthaboutPetFood.com
AssociationforTruthinPetFood.com