



Susan Thixton <susan@truthaboutpetfood.com>

violations of Indiana Open Door Law complant

1 message

Susan Thixton <susan@truthaboutpetfood.com>
To: rwaltz@purdue.edu

Mon, Jan 6, 2020 at 11:24 AM

Dear Governor Holcomb,

Copied: Dr. Robert Waltz, Indiana State Chemist and Seed Commissioner,
Curtis Hill, Indiana Attorney General

This email is to serve as a complaint to violations of the Indiana Open Door Law and potential knowing and intentional violations of the Indiana Open Door law should Office of Indiana State Chemist 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 Indiana 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 Office of Indiana State Chemist. 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 Office of Indiana State Chemist participation in AAFCO as official state business is found in Indiana Commercial Feed law which states (in part): *"In the interest of uniformity, the state chemist shall adopt the following by rule unless the state chemist determines that the following are inconsistent with this chapter or are not appropriate to conditions that exist in Indiana: (1) 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."*

Further, Office of Indiana State Chemist representative Robert Geiger served as AAFCO President in 2019, current Office of Indiana State Chemist and Seed Commissioner Dr. Robert Waltz served as AAFCO President in 2012. Office of Indiana State Chemist representative Robert Geiger currently serves on AAFCO's Education and Training Committee, AAFCO's Feed and Feed Ingredient Manufacturing Committee, and is Board Liaison for AAFCO's Model Bills and Regulations Committee. Office of Indiana State Chemist representative Dr. Robert Waltz currently serves on AAFCO's Finance Committee, and is Vice Chair of AAFCO's Strategic Affairs Committee. Office of Indiana State Chemist representative Brett Groves currently serves on AAFCO's Ingredient Definitions Committee and AAFCO's Inspection and Sampling Committee. Office of Indiana State Chemist representative Dorota Inerowica is currently Co-Chair of AAFCO's Laboratory Methods and Services Committee. Office of Indiana State Chemist representative Kathie Simpson currently serves on AAFCO's Pet Food Committee.

Indiana 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 Office of Indiana State Chemist), 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 Indiana Open Door Law states:

"It is the intent of this chapter that the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed."

(e) "Public business" means any function upon which the public agency is empowered or authorized to take official action.

Sec. 3. (a) Except as provided in section 6.1 of this chapter, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them."

In November 2019, the AAFCO Board of Directors – “*as directed by the board of directors*” (which includes Office of Indiana State Chemist representative Robert Geiger) - 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 Office of Indiana State Chemist in violation of Open Door laws and, as such, the Department can no longer participate in any future AAFCO meeting without being subject to punitive judgement.

Office of Indiana State Chemist 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 Office of Indiana State Chemist representative Robert Geiger – took action to close meetings without abiding by the federal and state legal requirements to close a meeting, violations of Open Door 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 Office of Indiana State Chemist must withdraw from participation in AAFCO until AAFCO meets all legal requirements of state and federal Open Meeting/Open Door/Sunshine Act laws.

We ask you to promptly reply to this email stating if Office of Indiana State Chemist intends to participate in upcoming AAFCO meetings.

Susan Thixton

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Susan Thixton
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TruthaboutPetFood.com
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