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## violations of Missouri Sunshine Law

1 message

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To: aginfo@mda.mo.gov

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Chris Chinn, Director of Agriculture  
Eric Schmitt, Missouri Attorney General

This complaint is notification regarding violations of Missouri Sunshine Law and knowing and intentional violations of Missouri Sunshine Law should Missouri 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 Missouri 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 Missouri 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 Missouri Department of Agriculture's participation in AAFCO as official state business is found in Missouri Commercial Feed law which states (in part):

*"Title 2 – Department of Agriculture, Division 70 – Plant Industries, Chapter 30 – Feeds  
CSR 70-30.010 Definitions and Terms*

*(1) The name and definitions for commercial feeds shall be the official definition of feed ingredients adopted by the Association of American Feed Control Officials (AAFCO), 2 CSR 70-30.015, except as the director designates otherwise in specific cases.*

*2) The terms used in reference to commercial feeds shall be the official feed terms adopted by the AAFCO, 2 CSR 70-30.015, except as the director designates otherwise in specific cases.*

*(C) The product is either a naturally occurring product of relatively uniform chemical composition or is manufactured to meet the AAFCO definition for the product;*

*(1) The annual publication of the Association of American Feed Control Officials (AAFCO), called the Official Publication of AAFCO, is written to establish uniform methods for regulating animal feeds. The feed terms, ingredient names (bold print words in the definitions and ingredient names indicated to the official) and ingredient definitions used in the publication are adopted for administration of the Missouri Commercial Feed Law.*

*2 CSR 70-30.030 Label Information PURPOSE: This rule and requirements conform to the AAFCO Model Rules. Missouri Commercial Feed Law states that products are misbranded if not labeled for appropriate use. Restrictions by FDA on meat and bone meal use are covered by this rule."*

Further, Missouri Department of Agriculture representative Stan Cook served as AAFCO President in 2018, served on AAFCO Board of Directors in 2019, serves on AAFCO's Nominating Committee, serves on AAFCO's Current Issues and Outreach Committee: Product Registration Standardization Workgroup, serves on AAFCO's Education and Training Committee, serves on AAFCO's Enforcement Issues Committee, serves on AAFCO's Feed and Feed Ingredient Manufacturing committee, serves on AAFCO's Ingredient Definitions Committee, serves on AAFCO's Inspection and Sampling Committee, recently served as Vice Chair of AAFCO's Pet Food Committee, and serves on AAFCO's Strategic Affairs Committee. Missouri Department of Agriculture representative Jacob Fleig serves on AAFCO's Education and Training Committee, serves on AAFCO's Inspection and Sampling Committee, serves as an AAFCO Investigator for Collective Terms. Missouri Department of Agriculture representative Ethan Willis serves on AAFCO's Inspection and Sampling Committee.

Missouri Sunshine Law defines “public meeting” as: *“any meeting of a public governmental body subject to sections 610.010 to 610.030 at which any public business is discussed, decided, or public policy formulated, whether such meeting is conducted in person or by means of communication equipment, including, but not limited to, conference call, video conference, internet chat, or internet message board.”*

Missouri Commercial Feed laws 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 MDA), and adopts and administers as part of law the labeling requirements written by the collective government agency members of AAFCO (further evidence of AAFCO’s service to MDA), but your agency does not provide those definitions, terms, and labeling requirements 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.”*

In November 2019, the AAFCO Board of Directors – *“as directed by the board of directors”* (which included Missouri Department of Agriculture representative Stan Cook) - 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 Missouri 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.

Missouri law does permit – in some circumstances – conducting state business in closed sessions. However, Missouri failed to meet any legal requirement for conducting closed sessions relating to AAFCO meetings. *“Notices of closed meetings must contain the date, time, and place of the meeting, and the specific reason in Section 610.021, RSMo., that allows for closing the meeting. In closed meetings, only business directly related to the reason for closure may be discussed. Roll call votes must be taken on the motion to close a meeting, and each vote taken during a closed meeting must be a roll call vote, with each vote recorded in the meeting minutes.”*

Missouri 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 Missouri Department of Agriculture representative Stan Cook – took action to close meetings without abiding by the 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 that 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 Missouri 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 Missouri Department of Agriculture intends to participate in upcoming AAFCO meetings.

Susan Thixton

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