

December 7, 2020

California Department of Public Health - Food & Drug Branch  
2 MacArthur Place, Suite 100,  
Santa Ana, CA 92707.

Subject: Response to Notice of Informal Stakeholder Engagement for Amending Processed Pet Food Regulations

Statement from TruthaboutPetFood.com/AssociationforTruthinPetFood.com regarding California Department of Public Health's request for informal comment:

We are dismayed that CDPH has not been forthcoming in their informal request for comment of California Processed Pet Food regulations that your Department has been in communication with AAFCO regarding adopting by reference the AAFCO Official Publication for more than a year prior to this public comment announcement. Through Freedom of Information Act we found emails between Sue Hays, AAFCO's Executive Director, Kristen Green, AAFCO's 2020 President and Diana Kaempfer-Tong of CDPH in October of 2019. In these FOIA obtained emails AAFCO instructs California to use a particular "*language*" that protects AAFCO's sale of pet food regulations instead of providing pet owners transparency. FOIA obtained emails showed AAFCO provided CDPH the following language: "*Incorporation by Reference. (1) 'Official Publication', 2018 Edition, Association of American Feed Control Officials, in incorporated by reference.*" This language suggested by AAFCO's President Kristen Green directly prevents pet owners from public access to pet food regulations and ingredient definitions (adopting by reference). This language can easily be interpreted as AAFCO encouraging CDPH to protect the profits of AAFCO (a private organization) over the public information rights of pet owners.

Concerningly, in an email dated October 18, 2019, CDPH's Ms. Kaempfer-Tong stated to AAFCO's Executive Director "*We are moving forward with our regulations and I am discussing incorporation with our program.*" As well, we are concerned that CDPH told AAFCO's Executive Director in another email of October 2019 "*we do not want to infringe on AAFCO's copyright.*" This is more than concerning that California would even consider adopting laws and legal definitions that pet owners would be forced to pay \$120.00 a year to read prior to accepting public comment. These emails indicate that CDPH has already decided to adopt by reference AAFCO's copyright protected regulations and this request for informal comment is little more than a paperwork requirement of the Department.

CDPH request for comment questions and our responses:

1. Are there any terms commonly used on processed pet food labels that you or your organization feel should be included in the regulations? If yes, please provide a full explanation as to what the term(s) is/are and why it/they should be included.

Response: All commonly used pet food label terms should be included in regulations, the regulations and legal definitions should be freely available for the public to read on the CDPH website, and those regulations should assure that pet owners clearly understand what they are purchasing.

Currently, terms commonly used on processed pet food labels are not clearly defined leaving pet owners in the dark to what is actually in their pets' food. As example, California law defines "Meat" as: "*the clean, wholesome flesh derived from slaughtered mammals and is limited to that part of the striated muscle which is skeletal or that which is found in the tongue, in the diaphragm, in the heart, or in the esophagus; with or without the accompanying and overlying fat, and the portions of skin, sinew, nerve and blood vessels which normally accompany the flesh. The term "meat" when applied to the corresponding portions of mammals other than cattle, swine, sheep and goats shall be used in qualified form, for example, "horsemeat."*

California Processed Pet Food law does not define “slaughtered” and the legal definition of meat does not hold the requirement of being USDA inspected and passed. Without a legal definition of slaughter and without the requirement of USDA inspected and passed, pet food meat can be sourced from non-slaughtered, and/or condemned animal material. Further, California Processed Pet Food law does not require pet food labels to disclose the quality of ingredients to the consumer; non-slaughtered meat, condemned meat, or USDA inspected and passed meat could all be used in pet food because your laws are incomplete allowing inferior or quality ingredients to be used in pet food with no disclosure which quality is used on the label.

Other current definitions included in California Processed Pet Food laws have similar lack of transparency issues. “Meat by-products” definition includes the terms “clean” and “slaughtered”. California has no legal definition for these terms. “Poultry” definition includes the undefined term “slaughtered”. “Poultry by-products” definition includes the undefined terms “clean” and “slaughtered”.

None of these definitions provide clear information to pet owners.

Current California Processed Pet Food law also includes a very unusual and broad definition of “edible”; (c) “Edible” as used in this article is to be construed as food fit to be eaten by dogs, cats, or other domestic animals.” California law references “food” in its definition of edible; “food fit to be eaten by dogs, cats...”. The Federal Food Drug and Cosmetic Act defines “food” as: Chapter 9, Subchapter II Definitions “(f) The term “food” means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.” However, with California Processed Pet Food law definitions of meat, poultry, and by-product - the definitions do not hold ‘food’ standards with no requirement of USDA inspected and passed. Further your definition of ‘edible’ does not define who construes what is “fit” for dogs and cats to eat.

As is currently written, California’s definitions of edible, meat, poultry and by-products needs further clarification for pet owners to understand if their pet’s ‘food’ is actually food or it is an inferior feed.

It is our recommendation that California Processed Pet Food laws should require all pet products to be clearly labeled as food or feed. Cat foods and Dog foods would be products that meet all legal requirements of California and federal food laws. Cat feeds and Dog feeds would be products that do not meet all legal requirements of California and federal food laws.

All other terms commonly used on processed pet food labels must be freely available for pet owners to read on the CDPH website. Existing California Processed Pet Food law states “The common names and definitions of other ingredients used in the processing of pet foods shall be those recognized in the Official Publication of Feed Control by the Association of American Feed Control Officials (AAFCO) Incorporated and/or the U.S. Department of Agriculture.” The common names and definitions of pet food ingredients published by AAFCO are not publicly available. Pet owners are required to purchase the Official Publication from AAFCO at a cost of \$120.00 per year. No pet owner should be forced to pay a private organization a substantial yearly fee in order to understand the regulations governing pet food and the legal definitions of pet food ingredients.

California Processed Pet Food law also tells pet owners that other common names and definitions are those recognized by the U.S. Department of Agriculture. The USDA does have a list of pet food definitions, but they are significantly different than those of AAFCO and California Processed Pet Food law.

As example: AAFCO defines "Meat" as: "Meat is the clean flesh derived from slaughtered mammals and is limited to the part of the striate muscle which is skeletal or that which is found in the tongue, in the diaphragm, in the heart, or in the esophagus; with or without the accompanying and overlying fat and the portions of the skin, sinew, nerve, and blood vessels which normally accompany the flesh. It shall be suitable for use in animal food. If it bears a name descriptive of its kind, it must correspond thereto." This definition is similar to California Processed Pet food law.

The USDA defines "Meat" in pet food as: "*Meat means the U.S. inspected and passed and so identified clean, wholesome muscle tissue of cattle, sheep, swine, or goats which is skeletal or which is found in the tongue, in the diaphragm, in the heart, or in the esophagus with or without the accompanying and overlying fat and the portions of skin, sinews, nerves, and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing. It does not include the muscle found in the lips, snout, or ears.*"

The AAFCO and the California Processed Pet Food definition of meat holds no requirement of inspected and passed. The AAFCO and the California definition is a "feed" definition. The USDA definition of pet food meat holds the ingredient to the standard of food requiring meat to be USDA inspected and passed.

The same feed/food definition discrepancy applies to all other ingredients defined by AAFCO, California and USDA. AAFCO and California definitions are feed, they are not held to food standards. The USDA definitions meet food standards.

We repeat, it is our recommendation that California Processed Pet Food laws should require all pet products to be clearly labeled as food or feed. CDPH must require pet products to clearly explain to pet owners what their pet products are - feed or food.

2. Regarding human grade food for pets, are there studies, data, or other information CDPH should consider in development of its labeling regulations? If yes, please let us know what those are. You may provide citations, links to studies, etc.

Response: Human grade pet foods are true pet 'foods'. As stated previously we request these products be clearly labeled as pet foods and all others as pet feeds.

3. Do you, or does your organization, have a position on allowing the use of the term "human grade" in reference to less than the whole product, for example a single ingredient?

Response: It would be beneficial to pet owners if the ingredient panel on pet products clarified which ingredients are human grade and which ingredients are feed grade (if a combination is used). As example an ingredient panel could look like this:

Human Grade Beef, Human Grade Beef Hearts, Human Grade Beef Kidneys, Human Grade Beef Livers, Ground Beef Bone sourced from USDA inspected and passed animals, Feed grade Carrots, Feed grade Blueberries, Feed grade Squash, Feed grade Sunflower Seeds, Human Grade Cranberries, Non-GMO Coconut Oil, Organic Human Grade Spinach, Organic Human Grade Pumpkin Seeds, Feed Grade Salmon Oil, Feed Grade Dried Kelp, Feed grade Apple Cider Vinegar, Feed Grade Vitamin D3 Supplement, Feed Grade Vitamin E Supplement, Feed Grade Thiamine Mononitrate, Feed Grade Folic Acid, Feed Grade Choline, Feed Grade Zinc Amino Acid Chelate, Feed Grade Copper Amino Acid Chelate, Feed Grade Sodium Selenite.

Should California allow the use of the term human grade for individual ingredients, California could require manufacturers to present validation documents for all human grade claims. Validation of the term by regulatory authorities would give pet owners confidence in these feed and food ingredient combination products.

4. Regarding natural food for pets, are there studies, data, or other information CDPH should consider in development of its labeling regulations? If yes, please let us know what those are. You may provide citations, links to studies, etc.

Response: We suggest that CDPH survey pet owners to ask what they understand as natural in pet products. We believe that pet owners expect a product to be minimally processed and free of synthetic ingredients when the claim natural is included on a label. But again, California Department of Public Health should survey California pet owners for their understanding of the term and write a legal definition that is appropriate. That final definition as well as all others should be publicly available on the CDPH website.

5. What do you, or your organization, consider the most important issue for CDPH to consider in relation to labeling of processed pet food?

Response: Pet products should be clearly labeled as pet food or pet feed. The use of feed grade ingredients in a product labeled as a pet 'food' is extremely misleading to pet owners. Feed grade pet products that include images of food on their labels and websites are extremely misleading to pet owners. Pet owners cannot make informed pet product decisions without this transparency.

6. What issue(s) should CDPH be aware of in establishing its labeling regulations?

Response: Again, we suggest to California to take this question directly to pet food consumers. In my experience as a pet food consumer advocate for 14 years, pet owners want to understand what they are purchasing – want to understand what they are providing their pet. Is the product sourced from diseased non-slaughtered animal material? Is the product sourced from USDA inspected and passed animal material? Are fruits, vegetables and supplements edible per human food safety standards or are they a lesser feed grade quality? These are significant questions that pet owners deserve answers to. The pet food label should clearly provide this information.

Representing Pet Food Consumers,

Susan Thixton

[TruthaboutPetFood.com](http://TruthaboutPetFood.com)

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