May 09, 2022

Via Electronic Submission

Division of Dockets Management
Food and Drug Administration
Department of Health and Human Services
5630 Fishers Lane, Room 1061 (HFA-305) Rockville, MD 20852

Re: Citizen Petition- Asking FDA to take action on the issue of North Carolina Department of Agriculture misusing AFRPS grant funds from FDA

To whom it may concern:

The undersigned submits this petition under both the Federal Food, Drug, and Cosmetic Act (the Act) and pursuant to 21 C.F.R. §§ 25.30 and 25.34 and 21 C.F.R. § 10.30(b), to request the FDA take action on the issue of North Carolina Department of Agriculture misusing AFRPS grant funds to attend AAFCO meetings.

A. Action Requested

Petition requests FDA to take action on the issue of North Carolina Department of Agriculture misusing AFRPS grant funds to attend AAFCO meetings

B. Statement of Grounds

On January 29, 2020, Jessica Gore of the North Carolina Department of Agriculture sent an e-mail to Sarah Condra of the North Carolina Department of Agriculture asking, "Do you know if we are supposed to use code 10701970 (the AFRPS grant) for our travel reimbursements for the midyear meeting?" The midyear meeting Jessica Gore is referring to is the midyear AAFCO (Association of American Feed Control Officials) meeting. Sarah Condra responded, "Yes, please use the AFRPS grant code (10701970) on your reimbursement." Other members of the North Carolina Department of Agriculture, including this year's AAFCO president George Ferguson, are also engaging gin this practice of using FDA's AFRPS grant funds for traveling purposes.

Included now in this petition are two photos, showing the emails between the employees, who FDA-CVM considers to be "state partners", and who FDA is providing federal AFRPS grant funding to.

From: Gore, Jessica
To: Condra, Sarah
Subject: AAFCO
Date: Wednesday, January 29, 2020 12:39:00 PM

Hey Sarah,

Do you know if we are supposed to use code 10701970 (the AFRPS grant) for our travel reimbursements for the midyear meeting?

Jessica E Gore

Agricultural Compliance Officer I/FSMA Programs Coordinator
Food & Drug Protection Division
North Carolina Department of Agriculture & Consumer Services
(919) 270-1635

From: Condra, Sarah
To: Gore, Jessica
Subject: RE: AAFCO
Date: Wednesday, January 29, 2020 12:41:19 PM

Hi Jessica,
Yes, please use the AFRPS grant code (10701970) on your reimbursement.

Thanks,
Sarah

From: Gore, Jessica <Jessica.Gore@ncagr.gov>
Sent: Wednesday, January 29, 2020 12:39 PM
To: Condra, Sarah <Sarah.Condra@ncagr.gov>
Subject: AAFCO

Hey Sarah,

Do you know if we are supposed to use code 10701970 (the AFRPS grant) for our travel reimbursements for the midyear meeting?

Jessica E Gore

Agricultural Compliance Officer I/FSMA Programs Coordinator
Food & Drug Protection Division
North Carolina Department of Agriculture & Consumer Services
(919) 270-1635

AFRPS grant funds provided to North Carolina Department of Agriculture via the AFRPS program, ***<u>are not intended to be used for traveling to private AAFCO meetings</u>***, which North Carolina Department of Agriculture states it "volunteers" at/for. FDA has stated, "*The AFRPS is composed of eleven standards that serve as an objective framework to evaluate and improve components of a State PROGRAM. The standards cover the State PROGRAM'S REGULATORY FOUNDATION, training, inspection program, auditing, feed-related illnesses or death and*

*emergency response, enforcement program, outreach activities, budget and planning, laboratory services, sampling program, and assessment and improvement of standard IMPLEMENTATION." (*https://www.fda.gov/media/136030/download*)*

Private AAFCO meetings, where animal feed and pet food regulations are developed in private, ***is not party of any of the standards FDA has outlined for this program***.

At private AAFCO meetings, North Carolina Department of Agriculture employees engage in writing "animal feed definitions", and pet food "definitions", that states adopt into their feed laws by "reference", and that FDA "recognizes" federally via a memorandum of understanding. While North Carolina Department of Agriculture is only one of many states engaged in this backdoor rulemaking process which violates the administrative procedures act, for the purpose of this citizen petition, I am only addressing North Carolina Department of Agriculture.

FDA providing federal funds to North Carolina Department of Agriculture via AFRPS, North Carolina Department of Agriculture then using those federal funds for travel purposes to private AAFCO meetings to engage in making "regulations" via this private corporation, is a violation of the administrative procedures act because the "regulations" were developed privately and not in compliance with the federal administrative procedures act law. AAFCO is a private corporation operated by public state and federal regulatory employees, which then "copyrights" "regulations" under their private corporation. Federal funds are helping fund these meetings and sponsor state agencies to create "animal feed" and pet food regulations in private.

Given this evidence, I request FDA:

- Issue a warning letter to North Carolina Department of Agriculture, instructing them to stop using federal AFRPS grant funds to cover "travel costs" to private AAFCO meetings
- Request North Carolina Department of Agriculture reimburse FDA for all AFRPS funds the state agency has used for travel purposes to AAFCO meetings

Additionally, I request FDA:

- Stop attending AAFCO meetings and withdraw from the MOU with AAFCO
- Instead, FDA-CVM should hold and host public regulatory meetings where FDA and state partners or AFRPS grant partners engage in ***public rulemaking*** for animal feed and pet food ingredients, in compliance with the administrative procedures act.

C. Environmental Impact

A claim for categorical exclusion of the requirement for submission of an environmental assessment or environmental impact statement is made pursuant to 21 C.F.R. §§ 25.30 and 25.34.

D. Economic Impact

In accordance with 21 C.F.R. § 10.30(b), economic impact information is to be submitted only when requested by FDA following review of the petition. The undersigned will promptly provide this information if requested.

E. Certification

The undersigned certifies, that, to the best knowledge and belief of the undersigned, this petition includes all information and views on which the petition relies, and that it includes representative data and information known to the petitioner which are unfavorable to the petition.

Harry duty (May 9, 2022 12:32 CDT)

Harry Duty
Citizen & Stakeholder
(b) (6)
[redacted]