

United States Senate

WASHINGTON, DC 20510

April 11, 2019

The Honorable John Hoeven
Chairman
Appropriations Subcommittee on Agriculture,
Rural Development, FDA, and Related Agencies
129 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Jeff Merkley
Ranking Member
Appropriations Subcommittee on Agriculture,
Rural Development, FDA, and Related Agencies
190 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Hoeven and Ranking Member Merkley:

As you consider Fiscal Year (FY) 2020 appropriations, we urge you to support enforcement of key U.S. Department of Agriculture (USDA) animal welfare laws. Your leadership is crucial in helping to protect the welfare of millions of animals across the country.

As you know, enforcement of animal welfare laws also benefits people by decreasing: sale of unhealthy pets by commercial breeders, commonly referred to as "puppy mills;" laboratory conditions that may impair the scientific integrity of animal based research; risks of disease transmission from, and dangerous encounters with, wild animals in public exhibition; injuries and deaths of pets on commercial airline flights due to mishandling and exposure to adverse environmental conditions; food safety risks to consumers from sick animals who can transmit illness; injuries to slaughterhouse workers from suffering animals; and orchestrated dogfights and cockfights that often involve illegal gambling, drug trafficking, and human violence, and can contribute to the spread of costly illnesses such as virulent Newcastle disease and bird flu.

We request the following for FY 2020:

Animal and Plant Health Inspection Service / Animal Welfare Act Enforcement

Summary: We request language to address multiple ways that current USDA leadership is undermining Animal Welfare Act (AWA) enforcement.

Background: The AWA is the chief federal law for the protection of animals. USDA's Animal Care division is responsible for inspections of 12,338 sites, including commercial breeding facilities, laboratories, zoos, circuses, and airlines, to ensure compliance with AWA standards. USDA's Office of General Counsel (OGC) and Investigative and Enforcement Services (IES) play essential roles in enforcement. We are very concerned that USDA is treating the regulated industries as customers, giving great deference to those who don't even comply with the AWA's modest requirements while giving short shrift to the animals and the taxpaying public.

For example, in April 2018, USDA unveiled a "pilot program" in which it began notifying some facilities prior to AWA inspections. This radical departure from the agency's decades-long practice of conducting only unannounced compliance inspections allows facilities to hide problems just before an inspector's arrival, and any further announced inspections must be prohibited. There has been a precipitous decline in AWA enforcement activity over the past two years, with far fewer cases

initiated, warnings issued, and official complaints filed, including a 60 percent drop in citations in 2018. We believe that this decline is not due to facilities suddenly complying with the law – to illustrate, several preventable exhibitor incidents in which wild animals hurt children, other animals, and themselves resulted in no citations. Inspectors are being advised not to document problems. According to a May 2018 USDA Tech Note, even multiple incidents directly affecting animal health and welfare are no longer to be included on inspection reports if certain criteria are met. This document explains how facilities can self-report to avoid getting citations on inspection reports.

Inspection standards and procedures have been dangerously weakened, such as no longer requiring that a written program of veterinary care be signed by an actual veterinarian, permitting veterinarians to diagnose and treat by phone without seeing their animal patients, and no longer requiring that animals be killed according to the American Veterinary Medical Association's Guidelines for Euthanasia of Animals. Inspection reports also show a pattern of downplaying problems; for example, ill and injured animals were listed as "treated" when in fact they had been euthanized, and a licensee who denied access to her property for seven consecutive inspection attempts during normal business hours over the past two years was cited with only a single citation. Focusing primarily on educating those in the regulated community rather than on enforcement is a strategy that undermines animal welfare. As explained by USDA's Inspector General in a 2010 Office of the Inspector General (OIG) audit of the animal care program: "The agency believed that compliance achieved through education and cooperation would result in long-term dealer compliance and, accordingly, it chose to take little or no enforcement action against most violators. However, relying heavily on education for serious or repeat violators – without an appropriate level of enforcement – weakened the agency's ability to protect the animals."¹ Morale at the agency is very low. About forty animal care staff members have been suspended, transferred or fired, have taken early retirement, or have quit in the past two years, and personnel have been threatened if they don't follow the new regime.

Requested Bill Language: We hope you will include report language calling attention to these concerns and pressing animal care, OGC, and IES to conduct robust oversight and enforcement of this vital law. To address some of the specific issues with AWA enforcement, we request the following bill language:

"None of the funds made available by this Act may be used to conduct announced compliance inspections under the Animal Welfare Act, 7 U.S.C. Sections 2131-2159. The Secretary shall ensure that each noncompliance is documented on an inspection report."

Animal and Plant Health Inspection Service / Horse Protection Act Enforcement

Summary: We request \$1,000,000 and bill language to direct stronger enforcement of the Horse Protection Act (HPA).

Background: Congress enacted the HPA in 1970 to outlaw the abusive practice of "soring," in which unscrupulous trainers deliberately inflict pain on Tennessee Walking Horses' hooves and legs to create an artificially exaggerated, high-stepping gait and gain unfair competitive advantage at horse shows. Some examples of soring include applying caustic chemicals, using plastic wrap and tight bandages to "cook" those chemicals deep into the horse's flesh for days, attaching heavy chains to strike against the sore legs and heavy, stacked horseshoes that force the horse's legs into unnatural angles, cutting the hooves down to expose the live tissue, jamming hard objects into the sensitive areas of the feet, and

¹ <https://www.usda.gov/oig/webdocs/33002-4-SF.pdf>

using salicylic acid or other painful substances to slough off scarred tissue or numbing agents in an attempt to disguise the sores. An October 2010 OIG report documented serious conflicts of interest and other significant problems with the industry self-monitoring system of Horse Industry Organizations (HIOs) on which the Animal and Plant Health Inspection (APHIS) inspection program still relies.

Many horse show industry, veterinary, and animal protection groups have called for an end to this flawed system of industry self-policing, and USDA announced final regulations to accomplish this along with other needed reforms to end soring². These rules [Docket No. APHIS-2011-0009] received more than 100,000 public comments in support, including bipartisan letters signed by 182 Representatives and 42 Senators. Unfortunately, these regulations were not adopted. Since then, it has been reported that USDA officials have stated their view that the HIOs have primary responsibility to enforce the HPA, not the agency.

Requested Funding: We request \$1,000,000 in the bill to ensure stronger enforcement of the HPA.

Requested Report Language:

“The Committee provides \$1,000,000, an increase of \$295,000, for enforcement of the Horse Protection Act, and reminds the Secretary that Congress granted the agency primary responsibility to enforce this law.”

Requested Bill Language:

“The Secretary shall publish the final rule, “Horse Protection; Licensing of Designated Qualified Persons and Other Amendments” [Docket No. APHIS-2011-0009], as it was finalized and displayed in advance public notice in the Federal Register on January 19, 2017, with effective dates adjusted to reflect the delay in implementation.”

USDA Data Purge / Online Access to HPA and AWA Records

Summary: We request bill language directing USDA to immediately restore comprehensive online, searchable access to all inspection reports, annual reports, fines, suspensions, warnings, and other documents regarding violations or enforcement of the Horse Protection Act and the Animal Welfare Act.

Background: We strongly disagree with APHIS’ abrupt removal from its website of thousands of pages of these essential records and its searchable database, developed at taxpayer expense to allow analysis and comparison of data by the agency itself and by the public. While some of these records have now been restored, APHIS has redacted the identity of many violators and otherwise failed to restore usable data. The taxpaying public that finances USDA enforcement should have ready access to the compliance records of regulated entities. Public access to this information can guide consumer decision-making and plays an important role in deterring regulated entities from violating the law. Access to these records underpins state and local laws meant to protect animals and consumers, such as the laws in eight states prohibiting sale of dogs from breeding operations with a history of serious AWA violations.

² https://www.aphis.usda.gov/newsroom/federal_register/hpa-rule.pdf

Transparency is also in the interest of responsible industry stakeholders. As noted by Speaking of Research, a pro-animal research organization opposing the USDA purge, “[w]hen information is hidden, particularly where it was once available...the public wonders what is being hidden and why, and researchers must devote even more resources to combatting the public perception that they are not transparent.” Posting these records is akin to police departments posting arrest reports, food safety agencies posting code violations, and professional licensing boards posting alleged violations of professional misconduct.

Requested Bill Language: We appreciate the inclusion of language on this subject in the explanatory statement accompanying the FY 2018 omnibus, but because this problem persists we request the following bill language:

“The Animal and Plant Health Inspection Service shall, within 60 days of enactment of this Act, restore on its website the searchable database and its contents that were available on January 30, 2017, and for all content generated since that date and hereafter, make publicly available via searchable database, in their entirety without redactions except signatures: (1) all Animal Welfare Act inspection reports and animal inventories; (2) Animal Welfare Act and Horse Protection Act enforcement action records including warning letters, stipulations, settlement agreements, administrative complaints, and court orders; and (3) research facility annual reports.”

Animal and Plant Health Inspection Service / Protecting Animals with Shelter Implementation

Summary: We request \$3,000,000 for grants to provide shelter options for domestic violence survivors with companion animals.

Background: We are pleased that the 2018 Farm Bill (P.L. 115-334) included Section 12502, incorporating the language of the Pet and Women Safety (PAWS) Act, which authorizes a new grant program to provide emergency and transitional shelter options for domestic violence survivors with companion animals. Research shows that abusers often threaten or inflict violence on pets as a way to intimidate or exert control over their partners and prevent them from leaving. This program will ensure that more domestic violence shelters are able to accommodate pets or arrange for pet shelter.

Requested Funding: We request \$3,000,000 in the bill to implement the PAWS grant program as authorized in Section 12502 of P.L. 115-334.

Requested Report Language: *The Committee directs the Secretary of Agriculture to immediately begin consultations, and enter into any memoranda of understanding as directed, to establish during FY 2020 the requirements for grant application and execution under Section 12502 of P.L. 115-334 to provide emergency and transitional shelter options for domestic violence survivors with companion animals.*

Agricultural Research Service / Animal Welfare for Farm Animals Used in Agricultural Research

Summary: We request report language to ensure, under a Memorandum of Understanding (MOU) between APHIS and the Agricultural Research Service (ARS), high standards of care for animals used in research at ARS facilities.

Background: A 2015 investigation by the New York Times reported shocking instances of animal mistreatment and neglect associated with experiments conducted on farm animals at an ARS facility,

the U.S. Meat Animal Research Center (USMARC), and repeated disregard for objections raised by the Center's own veterinary staff. We appreciate that the Committee responded by making five percent of the ARS budget for FY 2016 contingent on ARS updating its animal care policies and requiring that all ARS facilities at which animal research is conducted have a fully functioning Institutional Animal Care and Use Committee (IACUC) to ensure compliance with animal welfare standards and principles of scientific integrity. In that and subsequent years, the Committee also provided increased funding to enable APHIS, under an MOU with ARS, to conduct inspections consistent with the AWA at each ARS facility that uses animals in research, and directed APHIS to post its inspections reports online and provide copies to the Committees. The explanatory statement accompanying the FY 2019 omnibus expressed concern regarding the quarterly reports on animal welfare issues submitted by ARS, noting that "ARS did not report a single specific negative finding by APHIS inspectors, despite the fact that numerous violations have been found involving the death of numerous animals and serious health issues of many more. The failure to report these problems to the Committees is unacceptable." The FY 2019 omnibus directs ARS to submit within 60 days a report covering all violations found by APHIS to date and the specific actions taken to prevent their recurrence, as well as to continue submitting quarterly reports that include all violations and planned preventive actions for current and newly-covered facilities.

Requested Report Language: We commend the Committee for its ongoing oversight and request the following report language to ensure ARS facilities' adherence to the AWA, continued APHIS inspections of each ARS facility with animals, and full transparency regarding inspection results and preventive actions:

"The Committee directs ARS to ensure that each of its facilities housing animals is adhering to the standards of the Animal Welfare Act at all times. The Committee further directs APHIS to continue conducting inspections of all such ARS facilities and posting inspection reports online, and directs ARS to submit quarterly reports that include all violations found by APHIS during that quarter and the specific actions that will be taken to prevent their recurrence."

Food Safety and Inspection Service / Humane Methods of Slaughter Act Enforcement

Summary: We request bill language to ensure strengthened Humane Methods of Slaughter Act (HMSA) enforcement.

Background: We appreciate the committee's inclusion of FY19 bill and committee report language regarding humane slaughter. USDA oversight of humane handling rules for animals at slaughter facilities is vitally important not only for animal welfare but also for food safety. Effective day-to-day enforcement can prevent abuses like those previously documented in undercover investigations and reduce the chance of associated food safety risks and costly recalls of meat and egg products.

Requested Bill Language: We request the following language to ensure HMSA enforcement is strengthened:

"The FSIS shall ensure that inspectors focus their attention on overseeing compliance with humane handling rules for live animals as they arrive and are offloaded and handled in pens, chutes, and stunning areas, and that all inspectors receive robust national training in humane handling and inspection techniques. The agency shall conduct an annual program evaluation for its humane handling inspections program that includes document review, field staff surveys, and monitoring to

assess the degree of consistency and objectivity of implementation of the HMSA by all levels of inspection staff.”

Office of Inspector General / Animal Fighting Enforcement

Summary: We request language calling for the OIG to strengthen efforts to combat illegal animal fighting activity and to assess USDA’s enforcement of key animal welfare laws.

Background: Congress first prohibited most interstate and foreign commerce of animals for fighting in 1976, established felony penalties in 2007, and strengthened the law as part of the 2002, 2008, 2014, and 2018 Farm Bills. We hope the Committee can urge USDA to take seriously its responsibility to enforce this law, working with state and local agencies to complement their efforts and address these barbaric practices, in which animals are drugged to heighten their aggression and forced to keep fighting even after they’ve suffered grievous injuries.

Dogs bred and trained to fight endanger public safety, and some dogfighters steal pets to use as bait for training their dogs. Cockfighting was linked to an outbreak of Exotic Newcastle Disease in 2002-2003 that cost taxpayers more than \$200 million to contain. In 2018, we have seen a return of this virulent disease among backyard “exhibition” chickens,³ which law enforcement can attest are typically gamefowl used in cockfighting. This outbreak has been steadily growing since May 2018 and now has crossed over to the poultry sector. Cockfighting has also been linked to the death of a number of people in Asia reportedly exposed to bird flu through the fighting activity.

Requested Report Language: We hope you will include the following language:

“The Committee is very concerned about illegal animal fighting activity that subjects animals to terrible cruelty and has the potential to spread illnesses such as virulent Newcastle disease and avian flu. The OIG is encouraged to increase its efforts to combat this illegal activity and to pursue animal fighting cases even if related concerns such as money laundering and illegal weapons have not yet been determined to be at issue in specific cases before an investigation is opened. The Committee also encourages the OIG to audit and investigate USDA enforcement of the Animal Welfare Act, the Horse Protection Act, and the Humane Methods of Slaughter Act to help improve compliance with these important laws.”

National Institute of Food and Agriculture / National Veterinary Medical Services Act

Summary: We request \$9,000,000 for the Veterinary Medicine Loan Repayment Program (VMLRP) (National Veterinary Medical Service Act, P.L. 108-161).

Background: We appreciate that Congress has recognized the importance of ensuring access to timely veterinary care, which is a core animal welfare and animal health concern. To ensure adequate oversight of humane handling and food safety rules, to defend against bioterrorism, and to address a myriad of public health issues including those associated with parasites, rabies, chronic wasting disease, and pet overpopulation, VMLRP incentivizes veterinarians to fill vacancies in designated veterinary shortage areas across the country, offering educational loan assistance in exchange for at least three years of service in a shortage area. For FY 2019, USDA announced 190 veterinary shortage areas, an increase from the number in both 2018 and 2017. Student debt is a major contributor to veterinary shortages as it is a significant barrier to attracting veterinarians to practice in rural and

³ www.aphis.usda.gov/animalhealth/vnd

underserved areas. In 2018, veterinary school graduates carrying debt faced a crushing debt burden averaging \$180,000, and the starting salary for these graduates was just under \$80,000 for a fulltime position. While Congress has been generous in its support of VMLRP, each year shortage areas remain unfilled due to budget limitations. Even with increased funding in FY 2018, USDA was only able to make 74 awards but had 154 applicants. To date, over 1,500 veterinarians have applied for assistance under this program, yet only 525 awards have been made.

Requested Funding: We request \$9,000,000 for the Veterinary Medicine Loan Repayment Program and continued support for the Veterinary Services Grant Program.

APHIS / Emergency Management Systems / Animal Care

Summary: We request \$969,000 for Animal Care under APHIS' Emergency Management Systems line item.

Background: Hurricanes Katrina and Rita demonstrated that many people refuse to evacuate if they are forced to leave their pets behind. The Animal Care division develops infrastructure to help prepare for and respond to animal issues in a disaster and incorporate lessons learned from previous disasters. These funds are used to support state and local governments' efforts to plan for protection of people with animals, and to enable the agency to participate, in partnership with FEMA, in the National Response Plan without jeopardizing other Animal Care programs.

Requested Funding: We request \$969,000 for Animal Care under APHIS' Emergency Management Systems line item.

Thank you for your consideration of our requests.

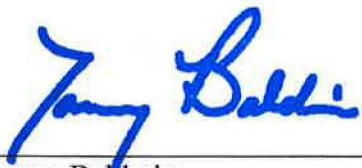
Sincerely,



Ron Wyden
United States Senator



John Kennedy
United States Senator



Tammy Baldwin
United States Senator



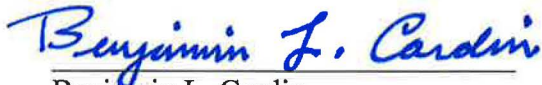
Richard Blumenthal
United States Senator



Cory A. Booker
United States Senator



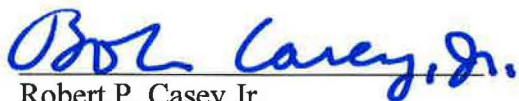
Maria Cantwell
United States Senator



Benjamin L. Cardin
United States Senator



Thomas R. Carper
United States Senator



Robert P. Casey Jr.
United States Senator



Susan M. Collins
United States Senator



Christopher A. Coons
United States Senator



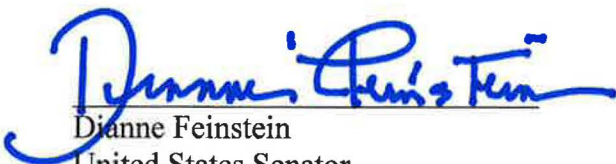
Catherine Cortez Masto
United States Senator



Tammy Duckworth
United States Senator



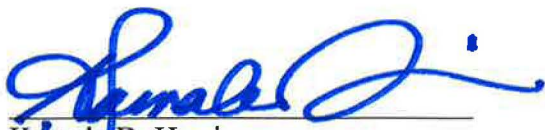
Richard J. Durbin
United States Senator




Dianne Feinstein
United States Senator



Kirsten E. Gillibrand
United States Senator


Kamala D. Harris
United States Senator


Margaret Wood Hassan
United States Senator


Mazie K. Hirono
United States Senator

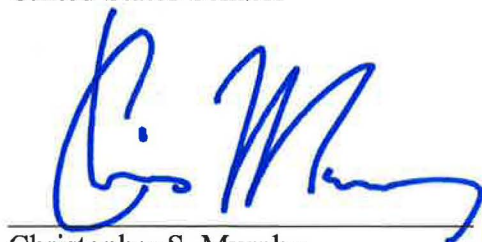

Tim Kaine
United States Senator


Amy Klobuchar
United States Senator


Edward J. Markey
United States Senator

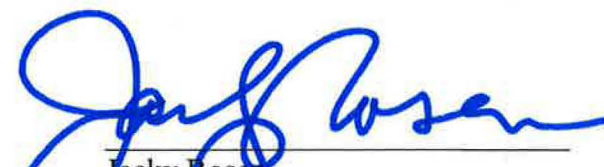

Martha McSally
United States Senator


Robert Menendez
United States Senator


Christopher S. Murphy
United States Senator


Gary C. Peters
United States Senator


Jack Reed
United States Senator


Jacky Rosen
United States Senator



Bernard Sanders
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Jeanne Shaheen
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Kyrsten Sinema
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Debbie Stabenow
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Tom Udall
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Chris Van Hollen
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Mark R. Warner
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Elizabeth Warren
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Sheldon Whitehouse
United States Senator