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December 26, 2019

DEPARTMENT OF AGRICULTURE Animal and Plant Health Inspection Service
[Docket No. APHIS–2011–0102] Privacy Act of 1974; System of Records
AGENCY: Animal and Plant Health Inspection Service, USDA.
ACTION: Notice of a modified system of records.
Federal Register 56999 Vol. 84, No. 206, October 24, 2019, pg 56999

Submitted Electronically via eRulemaking Portal: <https://www.regulations.gov/comment?D=APHIS-2011-0102-0001>

Attorneys for Animals, Inc. (AFA) is a Michigan non-profit and 501(c)(3) organization of legal professionals and animal advocates. Founded in the 1990s, we actively follow legislative, administrative and policy actions related to the welfare of animals, both in Michigan and nationwide.

We oppose the Notice, which will continue, formalize and normalize the hiding of records of Animal Welfare Act and Horse Protection Act inspection and enforcement actions. Due to provisions of the FY 2020 spending bill recently enactedⁱ, we assert that the changes called for in the Notice are moot and call on the agency to withdraw it.

Instead of protecting animals and allowing information vital to the public to be readily available, the modification of records set forth in the Notice would provide cover for those puppy mill and roadside zoo operators, horse handlers, laboratory managers and other entities to escape public scrutiny. The stated reason for this change, privacy, is cynical and unpersuasive. These are commercial entities who profit from using animals.

We see this Notice as part of a disturbing trend in USDA priorities: significantly decreased enforcement of the AWA, coupled with a lack of transparency in making the data available. In 2018, *only 19* enforcement cases were launched, a decrease of 92% from 2016. The number of animal welfare citations issued dropped from 4944 to 1716 in 2018, a decrease of 65%.ⁱⁱ

In light of the fact that Congress has enacted, and the President has signed into law, an omnibus appropriations package for FY 2020 that includes a requirement that USDA restore a searchable

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database with inspection reports scrubbed in February 2017 to its public website, post content generated since then and continuing for three years, without redactionⁱⁱⁱ.

We call upon APHIS to withdraw the Notice and instead spend its taxpayer funded resources in restoring both transparency in reporting information, and vigorous enforcement of the law it is charged to administer. The animals and the public who rely on agency action will be better served.

ⁱ PA 116-94, <https://www.congress.gov/bill/116th-congress/house-bill/1865>

ⁱⁱ Brulliard, K and Wann, W (2019) 'Caged Raccoons Drooled in 100 degree heat but federal enforcement has faded', *Washington Post*, August 21.
https://www.washingtonpost.com/science/caged-raccoons-drooled-in-100-degree-heat-but-federal-enforcement-has-faded/2019/08/21/9abf80ec-8793-11e9-a491-25df61c78dc4_story.html?arc404=true

ⁱⁱⁱ PA 116-94, *supra*, Sec. 788. The Animal and Plant Health Inspection Service shall, notwithstanding any other provision of law:

(a) within 60 calendar days, restore on its website the searchable database and its contents that were available on January 30, 2017, and all content generated since that date; and

(b) hereafter, make publicly available via searchable database, in their entirety without redactions except signatures, the following records after enactment of this Act for a subsequent period of three years:

(1) all final Animal Welfare Act inspection reports, including all reports documenting all Animal Welfare Act non-compliances observed by USDA officials and all animal inventories;

(2) all final Animal Welfare Act and Horse Protection Act enforcement records;

(3) all reports or other materials documenting any non-compliances observed by USDA officials; and

(4) within six months of receipt by the agency, all final Animal Welfare Act research facility annual reports, including their attachments with appropriate redactions made for confidential business information that USDA could withhold under FOIA Exemption

4.