H.R.3136, The Enforcement Transparency Act (ETA): What to Know

- H.R.3136, sponsored by Rep. Rod Blum (R-IA), would require the United States Department of Agriculture (USDA) to post on USDA.gov its table of penalty guidelines for violations of the federal Animal Welfare Act. USDA acknowledged creation of this table in a 2010 press announcement but has not released it to the public or Members of Congress.

- Several Freedom of Information Act (FOIA) requests for the table from interested stakeholders were denied by USDA. USDA also refused to provide the information when requested by Members of the Senate and House.

- While an overwhelming majority of the regulated community (researchers and veterinarians at colleges, universities, pharmaceutical companies, hospitals) have a strong record of compliance, they and the public have a right to know what penalties can be levied by USDA for non-compliance with the AWA. This right to know is the soul of open, transparent government, especially when the issuance of financial penalties could impact American competitiveness. If the general public can have knowledge of other penalties like littering, jaywalking, or speeding, the same should apply to laws enforced by USDA.

- Publication of the table does not affect the deliberative process of USDA’s enforcement of the AWA. The table is intended to be a simple guide to issue a specific dollar amount, where no debate or deliberation is required. USDA, at this point, would have already determined that an institution was not in compliance with the AWA. In fact, USDA claims in the May 2010 press release that the table is meant to serve as a deterrent to violating the AWA. Knowledge of potential penalties could certainly serve as a deterrent and bring trust, clarity and understanding to USDA's enforcement actions. But only if released.

- USDA has denied the public access to these documents because it has said it allows the regulated community to weigh the estimated cost for violation of the AWA. This is an instant and unfair assumption that research institutions choose noncompliance. Nearly 80% of USDA's inspections of animal research facilities receive a passing inspection. Additionally, no research program, private or federal, has budget items designed specifically to address levied fines.

- Please use NABR’s Capwiz site to send a pre-written email directly to your Member of Congress and urge them to support the ETA. This quick and easy-to-use tool can be found here.