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OF THE UNITED STATES**

August 28, 2012

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The Honorable Kathleen Sebelius, Secretary
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

***Re: Letter in Support of Rulemaking Petition to Establish Criteria
for Retiring Laboratory Chimpanzees***

Dear Secretary Sebelius,

On behalf of The Humane Society of the United States (HSUS), the nation's largest animal protection organization, I am writing to express our support of the petition submitted by the New England Anti-Vivisection Society (NEAVS), the North American Primate Sanctuary Alliance (NAPSA), Save the Chimps, Fauna Foundation, Animal Protection of New Mexico (APNM), the Kerulos Center, and Senator Bob Smith, requesting that the Secretary of Health and Human Services establish regulatory criteria for determining when chimpanzees kept in laboratories are no longer needed for research.

The purpose of the Chimpanzee Health Improvement, Maintenance, and Protection Act (CHIMP Act, Pub. L. No. 106-551, 42 U.S.C. § 283m) is "to provide a permanent lifetime sanctuary for chimpanzees who have been designated as no longer useful or needed in scientific research." 146 Cong. Rec. S11654 (2000). Congress explicitly directed the Secretary for Health and Human Services to "provide for the establishment and operation . . . of a system to provide for the lifetime care of chimpanzees who have been used, or were bred or purchased for use, in research conducted or supported by the National Institutes of Health, the Food and Drug Administration, or other agencies of the Federal Government, and with respect to which it has been determined by the Secretary that the chimpanzees are not needed for such research" 42 U.S.C. § 283m(a) (emphasis added). The CHIMP Act establishes a process for retirement of both federally-owned chimpanzees and non-federally owned chimpanzees. *Id.* at § 283m(c), (d)(4). *See also* Pub. L. No. 110-170 (the "Chimp Haven is Home Act" prohibited recalling retired chimpanzees back into laboratory research); 153 Cong. Rec. E2670-02 ("The system envisioned by the CHIMP Act is now a reality in Keithville, Louisiana. It is called Chimp Haven.").

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Thus, Congress clearly intended for the Secretary to develop a process for evaluating the laboratory chimpanzee colony to determine which individuals are not needed for research and thus are eligible for retirement to sanctuary. The Secretary is currently abdicating this statutory duty by allowing individual laboratories to make such determinations; therefore, the Secretary must adopt regulations by which to determine each chimpanzee's status in order to fulfill the Congressional mandate of the CHIMP Act.

The proposed criteria put forth in the Petition are scientifically and factually based, and would allow the Secretary to make reasoned determinations as to the status of each laboratory chimpanzee's eligibility for retirement. Chimpanzees must be deemed "not needed" if they (1) are held or proposed for research for which chimpanzees have been found to be scientifically unnecessary, (2) have not been used in a research protocol in ten years, or (3) are unfit research models due to inadequate records or their physical or psychological condition.

It is imperative that the Secretary take immediate action to comply with the CHIMP Act and establish criteria to evaluate the necessity of keeping hundreds of chimpanzees warehoused in biomedical laboratories. This is especially true given the recent National Academies Institute of Medicine's report, which did not identify a single area of biomedical research for which chimpanzees are essential. Further, an undercover investigation conducted by HSUS at the New Iberia Research Center demonstrates the horrendous conditions that chimpanzees in laboratories continue to endure while warehoused for unnecessary invasive research. Sending chimpanzees no longer needed for research to sanctuary not only would promote animal welfare, but would amount to a significant savings for taxpayers, allowing the federal government to support alternative research models that are more effective for protecting human health.

This action is long overdue, and we strongly urge the Secretary to adopt the regulations requested in the Petition.

Sincerely,



Kathleen Conlee

Vice President, Animal Research Issues

cc:

William B. Schultz, Acting General Counsel
U.S. Department of Health and Human Services
200 Independence Ave., S.W., Room 713-F
Washington, DC 20201