

Calendar No. 198

116TH CONGRESS }
1st Session }

SENATE

{ REPORT
116-94

PROTECTING AMERICA'S FOOD AND
AGRICULTURE ACT OF 2019

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2107

TO INCREASE THE NUMBER OF CBP AGRICULTURE SPECIALISTS
AND SUPPORT STAFF IN THE OFFICE OF FIELD OPERATIONS
OF U.S. CUSTOMS AND BORDER PROTECTION, AND FOR OTHER
PURPOSES



SEPTEMBER 10, 2019.—Ordered to be printed

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PROTECTING AMERICA'S FOOD AND AGRICULTURE ACT OF 2019

SEPTEMBER 10, 2019.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 2107]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 2107), to increase the number of CBP Agriculture Specialists and support staff in the Office of Field Operations of U.S. Customs and Border Protection, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
I. Purpose and Summary	1
II. Background and Need for the Legislation	2
III. Legislative History	3
IV. Section-by-Section Analysis	4
V. Evaluation of Regulatory Impact	4
VI. Congressional Budget Office Cost Estimate	5
VII. Changes in Existing Law Made by the Bill, as Reported	6

I. PURPOSE AND SUMMARY

The purpose of S. 2107, the Protecting America's Food & Agriculture Act of 2019, is to ensure the safe and secure trade of food and agriculture across our nation's borders by properly staffing ports of entry with trained agricultural inspection personnel. This bill authorizes the Commissioner of the U.S. Customs and Border Protection (CBP) under the Department of Homeland Security (DHS) to hire, train and assign 240 new Agricultural Specialists above attrition levels each year until the total number is equal to

or sustains the staffing requirements identified in the Agriculture Resource Allocation Model. The bill also authorizes CBP to hire, train, and assign 200 new Agriculture Technicians every year until the total number is equal to or sustains the staffing requirements identified in the Mission and Operational Support Resource Allocation Model. In addition, CBP may hire, train and assign 20 agriculture canine teams each year for the first three fiscal years following the enactment of this bill.

The bill also authorizes funding to support the hiring and training of the specialists, technicians and canine teams. The bill also requires the Government Accountability Office (GAO) to provide a report to Congress on the coordination and effectiveness of inspections by CBP, U.S. Department of Agriculture (USDA) and other Federal agencies, and the training and working environment of Agricultural Specialists. The authorities provided to CBP in this bill sunset at the end of fiscal year 2022.

II. BACKGROUND AND THE NEED FOR LEGISLATION

The Agricultural Quarantine and Inspection Program (AQI), which is jointly administered by CBP and USDA's Animal Plant Health Inspection Service, helps safeguard the U.S. agriculture, food supply and economy from potentially harmful or dangerous pests, plants pathogens, invasive plants and agro-terrorism.¹ Working at our nation's ports of entry, AQI's Agricultural Specialists are the nation's first line of defense against such threats as they carry out inspections of millions of pounds per year of cut flowers, vegetables, fruit, herbs and other plants and produce.²

CBP processes over 1 million passengers and pedestrians and over 78,000 truck, rail and sea containers carrying goods worth \$7.2 billion each day.³ Each year, these inspections by Agricultural Specialists result in the interception of tens of thousands of "actionable pests"—pests determined by a scientific risk assessment to be dangerous to the health and safety of the nation's agriculture supply.⁴ In fiscal year 2018, CBP reported that Agriculture Specialists intercepted 319 pests, and quarantined 4,552 materials, including meat, plant, animal byproduct and soil.⁵ However, the AQI program is currently experiencing staffing shortages that, if not addressed, could weaken the nation's ability to safeguard the food and agriculture supply.

As a result of a 2007 GAO report, the Agricultural Resource and Allocation Model (AgRam) was developed as a way to better identify the number of Agricultural Specialists, technicians and other administrative support staff to adequately support the mission of the AQI program.⁶ According to CBP, as of March 2019, the cur-

¹U.S. Gov't Accountability Office, GAO-08-96T, *Agricultural Inspection Program, Management Problems May Increase Vulnerability of U.S. Agriculture to Foreign Pests and Diseases* (2007).

²U.S. Customs and Border Protection, *Protecting Agriculture*, available at <https://www.cbp.gov/border-security/protecting-agriculture> (last visited Aug. 14, 2019).

³U.S. Gov't Accountability Office, GAO-19-263R, *U.S. Ports of Entry: Update on CBP Public-Private Partnership Programs* (2019).

⁴U.S. Customs and Border Protection, *CBP Agriculture Specialists at Port Manatee Intercept Rare Pest, First In Florida Discovery*, available at <https://www.cbp.gov/newsroom/local-media-release/cbp-agriculture-specialists-port-manatee-intercept-rare-pest-first> (released on July 3, 2019) (last visited on Aug. 14, 2019).

⁵*Id.*

⁶U.S. Gov't Accountability Office, GAO-12-885, *Agricultural Inspection Program Has Made Some Improvements, but Management Challenges Persist* (2012).

rent number of Agricultural Specialists is 2,543—695 below its fiscal year 2019 staffing target identified by AgRam.⁷ Steady increases in food and agricultural imports underscore the need to address these staffing shortages. For instance, imports from all countries rose from \$103 billion in 2012 to \$127 billion in 2018.⁸ Moreover, the year over year increase for 2017 to 2018 was a little over 7 percent, highlighting the need for sufficient staffing of Agricultural Specialists at ports of entry.⁹

Current and continuing threats to U.S. agriculture, including African swine fever (ASF) and other pests and diseases, further strengthen the argument for providing CBP with the resources necessary to sufficiently staff our ports of entry. Spread of ASF is on the rise around the world and some fear the disease could eventually affect our nation’s pork supply.¹⁰ African swine fever is a very contagious and deadly disease that affects domestic and wild pigs and there is not vaccine for this disease.¹¹ The disease has been found in sub-Saharan Africa, China, Mongolia, Vietnam and the European Union. Fortunately, African swine fever has never been found in the U.S.¹² Proper surveillance by CBP, canine teams, and USDA agricultural inspectors, and restricting importation of pork and pork products are the necessary to keep African swine flu out of the United States.

Appropriate staffing is necessary to ensure that proper inspections are conducted. S. 2107 increases staffing levels for inspector, technician and canine support teams that conduct agricultural inspections. It also requires a GAO study, briefing (within one year after enactment of the bill) and report (90 days after the briefing) that reviews interagency coordination and effectiveness between USDA and DHS, and training and working conditions of CBP agricultural staff.

III. LEGISLATIVE HISTORY

Ranking Member Gary Peters (D–MI) introduced S. 2107, the Protecting America’s Food and Agricultural Act, on July 11, 2019, with Senators Roberts (R–KS), Cornyn (R–TX) and Stabenow (D–MI). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 2107 at a business meeting on July 24, 2019. The bill passed by voice vote *en bloc* with Senators Johnson, Portman, Paul, Lankford, Romney, Scott, Enzi, Hawley, Peters, Carper, Hassan, Sinema, Rosen present.

⁷ Correspondence between the U.S. Customs and Border Protection officials and Committee staff (Apr. 15, 2019), (on file with Committee Staff).

⁸ Foreign Agric. Serv., U.S. Imports of *Agricultural Products* FY 2012–2018, U.S. Dep’t of Agric. <https://apps.fas.usda.gov/Gats/PrintBicoReport.aspx?&PT=C&MYT=F&EY=2019&EM=05&EMName=May&RT=P&PC=M1&SY=2012&IP=N&PG=BICO-HS10> (last visited Aug. 1, 2019).

⁹ *Id.*

¹⁰ Press Release, U.S. Dep’t of Agriculture, USDA Continues to Prevent African Swine Fever from Entering the U.S. (Mar. 19, 2019), <https://www.usda.gov/media/press-releases/2019/03/19/usda-continues-prevent-african-swine-fever-entering-us>;

¹¹ *Id.*

¹² *Id.*

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as the, “Protecting America’s Food and Agriculture Act of 2019.”

Section 2. Finding

This section describes congressional findings that it is in the nation’s national security interest to ensure that the food supply is protected, and that to do so adequate resources are needed to conduct agricultural inspections of imports.

Section 3. Definitions

This section provides a definition of “Appropriate Congressional Committees”, which includes the Committee’s on Homeland Security and Governmental Affairs, and Agriculture, Nutrition, and Forestry of the Senate, and the Committee’s on Homeland Security and Agriculture in the House of Representatives.

Section 4. Additional U.S. Customs and Border Protection personnel

Subsection (a) authorizes the Commissioner of CBP to hire, train and assign 240 new CBP Agriculture Specialists at levels above the attrition rate each year until the staffing targets identified by the AgRam are met.

Subsection (b) authorizes the Commissioner of CBP to hire, train and assign 200 new Agriculture Technicians at levels above the attrition rate each year until the staffing targets identified by the Mission and Operational Support Resource Allocation Model are met.

Subsection (c) authorizes the Commissioner of CBP to hire, train and assign 20 new agriculture canine teams during each of the first three years following the enactment of this bill.

Subsection (d) requires CBP to ensure that the AgRam accounts for data regarding the number of inspections conducted at each port of entry, volume surges, other projected changes in commercial and passenger volumes, current commercial forecasts, and other relevant data.

Subsection (e) authorizes funding to be appropriated to support the hiring activities in subsections (a) through (c) of this bill for three fiscal years beginning in fiscal year 2020 and ending in fiscal year 2022.

Section 5. GAO study, briefing, and report

This section requires GAO to conduct a review of DHS’s and USDA’s interagency coordination efforts, effectiveness of inspection responsibilities among Federal agencies, and the training provided to and working conditions of CBP Agricultural Specialists. GAO is also required to provide a briefing to appropriate congressional committees no later than one year following the bill’s enactment, and within 90 days of the briefing, provide a publically available report detailing the findings of its review.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered

the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 6, 2019.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2107, the Protecting America's Food and Agriculture Act of 2019.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

S. 2107, Protecting America's Food and Agriculture Act of 2019			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on July 24, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Deficit Effect	0	0	0
Spending Subject to Appropriation (Outlays)	0	222	222
Statutory Pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

S. 2107 would authorize the appropriation of specific amounts for each year over the 2020–2022 period totaling \$222 million for Customs and Border Protection. The funds would be used to hire agriculture specialists and other personnel to improve the comprehensiveness of inspections of food and agricultural goods entering the United States. Assuming appropriation of the authorized amounts, CBO estimates that implementing the bill would cost \$222 million over the 2020–2024 period. Estimated outlays are based on historical spending patterns for this program.

The costs of the legislation (detailed in Table 1) fall within budget function 750 (administration of justice).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION

	By fiscal year, millions of dollars—						
	2019	2020	2021	2022	2023	2024	2019– 2024
Authorization	0	50	75	97	0	0	222
Estimated Outlays	0	41	70	92	19	0	222

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

Because S. 2107 would not repeal or amend any provision of current law, it would make no changes in existing law within the meaning of clauses (a) and (b) of paragraph 12 of rule XXVI of the Standing Rules of the Senate.

