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The Animal Welfare Act: Background and Selected Animal Welfare Legislation

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Summary

In 1966, Congress passed the Laboratory Animal Welfare Act (P.L. 89-54) to prevent pets from being stolen for sale to research laboratories, and to regulate the humane care and handling of dogs, cats, and other laboratory animals. Farm animals are not covered by the AWA. The law was amended in 1970 (P.L. 91-579), changing the name to the Animal Welfare Act (AWA). The AWA is administered by the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS). Congress periodically amends the act to strengthen enforcement, expand coverage to more animals and activities, or curtail practices viewed as cruel (e.g., animal fighting), among other things. Congress also addresses animal welfare issues through other legislation (e.g., the Horse Protection Act), but the AWA remains the central federal statute governing the humane care and handling of mammals, including marine mammals.

Animal welfare bills introduced in the 114th Congress include the Pet Safety and Protection Act (H.R. 2849), which would amend the AWA to ensure that all cats and dogs used in research were properly obtained. H.R. 3136, the Enforcement Transparency Act of 2015, would amend the AWA to require USDA to issue guidelines relating to civil fines imposed for violating the AWA. H.R. 3193, the Animal Emergency Planning Act of 2015, would amend the AWA to require that research facilities, animal dealers, exhibitors, handlers, and carriers under the AWA, develop and implement emergency contingency plans for animals in their charge. The Orca Responsibility and Care Advancement Act of 2015 (H.R. 4019) would amend both the AWA and the Marine Mammal Protection Act of 1972 to prohibit the capture, importation, and exportation of orcas for public display. The bill would amend the AWA to prohibit the breeding of orcas for exhibition purposes. The Safe Transport for Horses Act (S. 946) and the Horse Transportation Safety Act (H.R. 1282) would amend the Transportation title (49 U.S.C. 80502) to prohibit the interstate transportation of horses in motor vehicles containing two or more levels stacked on top of one another. The Refuge from Cruel Trapping Act (S. 1081/H.R. 2016) would ban body-gripping traps from National Wildlife Refuges. Each of these bills has been referred to committees, but no further action was taken as of late 2015.

Following publication of USDA Inspector General's report on the inadequacy of the current horse soring inspection system, legislation to amend the Horse Protection Act (P.L. 91-540) was introduced. H.R. 3268/S. 1121, the Prevent All Soring Techniques (PAST) Act, would amend the current soring inspection system to place inspections under APHIS control rather than under the horse industry as it is currently. The Horse Protection Amendments Act (S. 1161) would also modify the inspection system, but retain inspection control within the horse industry.

Also introduced in the 114th Congress were bills that would end the exemption of farm animals from regulation under the AWA, and bring federal research under AWA registration and inspection. H.R. 746/S. 388, the Animal Welfare in Agricultural Research Endeavors Act, is a response to a widely reviewed article in the *New York Times* on the research activities at the Meat Animal Research Center, a USDA Agricultural Research Serviced facility.

Among APHIS regulatory actions in 2015 concerning the AWA, APHIS announced in May 2015 that it was seeking public comment on a petition from several animal welfare groups asking for specific rules on the care of all primates regarding their social and psychological well-being. APHIS also announced receiving a petition in 2013 from the Physicians Committee for Responsible Medicine to amend the AWA to define alternatives to procedures that may cause pain or distress to animals and to establish standards to consider these alternatives. APHIS is currently considering public comments that it received regarding these two petitions.

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The Animal Welfare Act (AWA; 7 U.S.C. 2131 *et seq.*) is intended to ensure the humane treatment of animals that are intended for research, bred for commercial sale, exhibited to the public, or commercially transported. Under the AWA, businesses and others with animals covered by the law must be licensed or registered, and they must adhere to minimum standards of care. Farm animals are among those not covered by the act, which nonetheless provides a broad set of statutory protections for animals.¹

The law was first passed in 1966 following several years of lobbying by animal welfare organizations and growing public outcry over allegations that large numbers of pets were being “dognapped” for sale to medical research laboratories. Congress amended the original law in 1970, 1976, 1985, 1990, and 2002. These amendments generally were intended to expand the scope of the AWA or to clarify various provisions. The U.S. Department of Agriculture’s (USDA’s) Animal and Plant Health Inspection Service (APHIS) administers the AWA. The House and Senate Agriculture Committees have exercised primary legislative jurisdiction over the act and its amendments.

Key Provisions of the Animal Welfare Act²

Animals Covered

The AWA applies to any live or dead dog, cat, nonhuman primate, guinea pig, hamster, rabbit, or other warm-blooded animal determined by the Secretary of Agriculture to be for research or exhibition, or used as a pet. The AWA also excluded birds, rats, and mice bred for research; horses not used for research; and other farm animals used in the production of food and fiber.³ Retail pet facilities were not covered, unless they sold wild or exotic animals. Cold-blooded animals like fish and reptiles also were excluded from coverage.

In 2002, an amendment to the AWA changed the definition of “animal” to include birds, rats, and mice. However, APHIS has yet to promulgate a rule to implement this change in the definition. As of late 2015, APHIS stated that it is moving forward with a final rule, but has not stated a timeline for its publication.

Businesses and Activities Covered

Generally, animal dealers and exhibitors must obtain a license, for which an annual fee is charged. APHIS does not issue a license until it inspects the facility and finds it to be in full compliance with its regulations. If a facility loses its license, it cannot continue its regulated activity. Those who conduct research, and general carriers that transport regulated animals, do not need a license but must still register with APHIS and undergo periodic inspections. Specific details follow.

¹ Legislation introduced, but not passed, in the 111th Congress, the Prevention of Farm Animal Cruelty (H.R. 4733) would have restricted federal purchases of food products derived from animals to those raised free from cruelty and abuse. Numerous other federal laws seek to protect other classes of animals, often those from the wild. Examples include the Marine Mammal Protection Act, the Lacey Act as amended, and the Wild Free-Roaming Horses and Burros Act. These and the others are described, with legal citations, in CRS Report 94-731, *Brief Summaries of Federal Animal Protection Statutes*, by Vivian S. Chu.

² Unless noted, sources on the AWA are various materials provided by APHIS.

³ For example, rabbits raised for food are exempt from AWA coverage; those for pets are not.

Dealers, including pet and laboratory animal breeders and brokers, auction operators, and anyone who sells exotic or wild animals, or dead animals or their parts, must have an APHIS license for that activity. So-called Class A licensees are breeders who deal only in animals they breed and raise; all others are called Class B licensees. Exempt from the law and regulations are retail pet stores, those who sell pets directly to pet owners, hobby breeders, animal shelters, and boarding kennels.

Exhibitors must be licensed by APHIS as such. These so-called Class C licensees include zoos, marine mammal shows, circuses, carnivals, and promotional and educational exhibits. The law and regulations exempt agricultural shows and fairs, horse shows, rodeos, pet shows, game preserves, hunting events, and private collectors who do not exhibit, among others.

Animal transporters must be registered, including general carriers (e.g., airlines, railroads, and truckers). Businesses that contract to transport animals for compensation are considered dealers and must have licenses.

Research facilities must be registered. They include state and local government-run research institutions, drug firms, universities, diagnostic laboratories, and facilities that study marine mammals. Federal facilities, elementary and secondary schools, and agricultural research institutions are among those exempt from registration.

Animal fighting is prohibited by the AWA. The ban includes dogfights and bear and raccoon baiting; sponsors and exhibitors are subject to penalties. The AWA also has banned bird fights, except in the states where they are not prohibited by state law (namely Louisiana and New Mexico), and the sponsor or exhibitor was unaware that the transaction had occurred in interstate commerce. Under provisions of the 2014 farm bill, spectators at animal fighting venues are now in violation of the AWA.

Retail pet stores were originally exempt from AWA licensure. Over the years, selling animals sight-unseen (often over the Internet) raised concerns about humane treatment of these unregulated retail sales. In September 2013, APHIS announced a regulatory change to redefine a retail pet store to mean a place where a buyer could personally observe the animal prior to purchase. Other retail outlets now require licensure and inspection under AWA. Retail pet stores that sell animals in face-to-face transactions remain exempt from AWA licensure.

The regulation further exempts anyone selling animals (except wild or exotic animals) that derives no more than \$500 gross income from the sale of such animals. The rule would also increase from three to four the number of breeding female dogs or cats, and/or small exotic or wild mammals, that a person may maintain on premises and remain exempt from AWA licensing and inspection.

Standards

All licensed and registered entities must comply with USDA-APHIS regulations, including recordkeeping and published standards of care. These standards deal with humane handling, shelter, space requirements, feeding, watering, sanitation, ventilation, veterinary care, and transport. (AWA regulations are found at 9 C.F.R. §1.1 *et seq.*)

Oversight and Enforcement

APHIS's Animal Care (AC) program oversees implementation of the AWA. For 2015, AC had an annual budget of approximately \$28 million.⁴

AC officials make unannounced inspections of registered and licensed facilities to ensure compliance with all rules. Under the AWA, research facilities are to be inspected at least annually. Federal research institutions are exempt from AWA licensing and inspection. Inspection frequency for other AWA-regulated facilities is based on risk; for example, moderate-risk facilities are to be visited about once yearly. APHIS inspectors also conduct searches to identify unlicensed or unregistered facilities. Failure to correct deficiencies can result in confiscation of animals, fines, cease-and-desist orders, or license suspensions.

In 2010, USDA's Office of the Inspector General (OIG) released an audit of AC's investigations of large-scale dog dealers (i.e., breeders and brokers) that failed to provide humane treatment for the animals under their care.⁵ In a previous audit of laboratory animals, the OIG found that AC did not aggressively pursue enforcement actions against violators of AWA. The May 2010 audit determined that (1) AC's enforcement process was ineffective against dealers with repeated violations; (2) APHIS misused its guidelines to lower penalties for AWA violators; and (3) some large breeders circumvented AWA by selling animals over the Internet.⁶ APHIS concurred with the OIG's findings and implemented 13 of the 14 recommendations, including a change in the definition of retail pet store to no longer exempt retail pet stores that were not selling animals in face-to-face transactions.⁷

Legislative History of the Animal Welfare Act

Original Law

Although long known as the Animal Welfare Act, the original law was passed simply as P.L. 89-544, and referred to as the "Laboratory Animal Welfare Act" of August 24, 1966. The law requires dealers in dogs and cats for research purposes to obtain a USDA license and to abide by USDA-set humane treatment requirements. It also requires a research facility to register with USDA only if it uses dogs or cats and either (1) purchases them in interstate commerce or (2) receives federal research money. The law authorizes the Secretary of Agriculture to set humane handling standards for guinea pigs, nonhuman primates, rabbits, and hamsters as well as dogs and cats—but only dealers and research facilities with dogs and cats are subject to these standards.

⁴ A portion of this total amount, \$697,000, is used to administer the Horse Protection Act (15 U.S.C. §§1821-1831), which makes it a crime to exhibit or transport any "sore" horse, i.e., one whose feet have been injured to alter its gait. See discussion of the Horse Protection Act below.

⁵ Animal and Plant Health Inspection Service Animal Care Program Inspections of Problematic Dealers, May, 2010. Report is accessible at <http://www.usda.gov/oig/webdocs/33002-4-SF.pdf>.

⁶ Large breeders that sell AWA-covered animals over the Internet are exempt from AC's inspection and licensing requirements due to a loophole in AWA. The IG report recommended that APHIS prevent large breeders from circumventing AWA requirements by seeking legislative change to exclude these breeders from the definition of "retail pet store," and require that all applicable breeders that sell through the Internet be regulated under AWA. The Puppy Uniform Protection and Safety Act (H.R. 835), reintroduced in the 112th Congress, would close the existing AWA loophole.

⁷ The OIG audit found that more than 80% of sampled breeders were not licensed under AWA because they sold animals over the Internet and claimed the "retail pet store" exemption under the AWA. Such "puppy mill breeders" were not being monitored or inspected to ensure the health and humane treatment of the animals.

Farmers and pet owners are among those exempted from the law. Other provisions spell out recordkeeping requirements, enforcement authorities and penalties for noncompliance.

Animal Welfare Act of 1970

P.L. 91-579 renamed the “Laboratory Animal Welfare Act” the Animal Welfare Act and expanded animal coverage to include all warm-blooded animals determined by the Secretary to be used for experimentation or exhibition, except horses not used in research and farm animals used in food and fiber research. The 1970 law also incorporated exhibitors; defined research facilities; and exempted from coverage retail pet stores, agricultural fairs, rodeos, dog and cat shows.

Animal Welfare Act Amendments of 1976

The 1976 amendments (P.L. 94-279) added Section 26 to the AWA. Section 26 is directed at animal fighting and made illegal (1) sponsoring or exhibiting an animal in an animal fighting venture; (2) interstate shipment of animals to be used in animal fighting ventures; and (3) use of U.S. mails or communication systems to advertise or promote animal fighting ventures. Section 26 contained its own definitions, authority for investigations, and penalty provisions. The 1976 amendments also clarified and expanded previous regulations covering animal transport and commerce. Hunting animals are generally exempt. The amendments passed over the objections of USDA and the U.S. Attorney General, who believed that animal fighting was a state and local law enforcement issue.

Improved Standards for Laboratory Animals Act

These amendments were passed as Title XVII, Subtitle F, of the Food Security Act of 1985 (P.L. 99-198, the omnibus 1985 farm bill). The law directs the Secretary to set new minimum standards of care for handling, housing, feeding, water, sanitation, ventilation, and so forth. One new provision that was highly contentious at the time singles out two species by requiring standards for the exercise of dogs and the psychological well-being of primates. The law provides that research facilities must have procedures that minimize pain and stress to the animals, and describes practices considered to be painful. Each research facility must establish an Institutional Animal Care and Use Committee to review research proposals that involve animal experimentation and to provide oversight of laboratories. The amendments also increase civil and criminal penalties for AWA violations, and establish an animal welfare information center at USDA’s National Agricultural Library.

Protection of Pets

Section 2503 of the Food Agriculture, Conservation, and Trade Act of 1990 (P.L. 101-624, the 1990 farm bill) extended pet protections. It required public and private animal shelters and research facilities that acquire dogs and cats to hold them for at least five days to allow time for either adoption or recovery by the original owner before they could be sold to a dealer. Dealers are prohibited from selling dogs and cats they did not breed unless they provide certified records on, among other things, the animals’ origin. Other new recordkeeping requirements also were specified.

Animal Welfare Amendments to the 2002 Farm Bill

Title X, Subtitle D, of the Farm Security and Rural Investment Act of 2002 (P.L. 107-171, the omnibus 2002 farm bill) makes it a misdemeanor to ship a bird in interstate commerce for fighting purposes, or to sponsor or exhibit any bird in a fight with knowledge that any of the birds were so shipped (even fights within a state where the practice is permitted). The law also increases the maximum financial penalty for a violation (a misdemeanor) of the anti-fighting provisions of the AWA, to \$15,000 from \$5,000. The 2002 law also explicitly excludes from AWA coverage birds, rats, and mice bred for research purposes. The Secretary of Agriculture had previously published regulations excluding these animals from coverage, which the Animal Legal Defense Fund challenged in federal court. When USDA agreed to settle the case by essentially reversing its regulations, Congress (in P.L. 106-387, the FY2001 agriculture appropriation bill) blocked the action by prohibiting funds for such a rule change. The 2002 law made the exclusion a permanent part of the AWA.⁸

The 2002 farm bill also amended the AWA's definition of "animal" to include rats, mice, and birds as animals covered under the AWA. Birds, rats, and mice bred for use in research were excluded from the amended definition. APHIS has, as of late 2015, not published its final rule implementing the definition change.

Animal Fighting Prohibition Enforcement Act of 2007

P.L. 110-22, signed into law May 3, 2007, made a violation of the animal fighting provisions of the AWA a felony punishable by up to three years in prison, under Title 18 of the U.S. Code (Crimes and Criminal Procedure). The law, based on companion bills (H.R. 137/S. 261), also made it a felony to trade, in interstate and foreign commerce, knives, gaffs, or other sharp objects designed for use in animal fighting, or to use the Postal Service or other "interstate instrumentality to trade in such devices, or to promote an animal fighting venture."

Proponents of various animal fighting bills had observed that in 2001, the House and Senate approved strong animal fighting sanctions in their respective farm bills, but that conferees on the final 2002 farm bill (P.L. 107-171) removed the felony language. Proponents argued that stronger deterrents were needed because animal fighting is a brutal, inhumane practice closely associated with criminal activity, endangers children where aggressive dogs are being reared, and may contribute to the spread of avian influenza in the case of live birds. Opponents countered that such measures would violate provisions in the U.S. Constitution that protect states' rights, including the Commerce Clause, and that recognize private citizens' right to travel for economic reasons. Other opponents argued that completely banning and/or stiffening penalties for all animal fighting activities would drive them further underground, undermining efforts to protect animals and the public from any disease problems created by such activities.

Animal Welfare Amendments to the 2008 Farm Bill

The 2008 farm bill (P.L. 110-246) contained a number of amendments to the AWA. One section (§14207) strengthened further the definitions of, and penalties for, activities related to animal fighting. For example, the amendments increased maximum imprisonment to five years from three years. The animal fighting provision was based on language in S. 1880 and H.R. 3219 (110th Congress)—bills introduced shortly after the July 17, 2007, indictment of National Football

⁸ CRS Report 94-731, *Brief Summaries of Federal Animal Protection Statutes*, by Vivian S. Chu.

League quarterback Michael Vick on charges related to dog fighting—to more explicitly ban various dog fighting activities, and to define the term.

The 2008 farm bill also required regulations prohibiting importation for resale of dogs unless they were at least six months of age, in good health, and had all necessary vaccinations. There were exemptions for research, veterinary treatment, or imports into Hawaii from certain countries. Another section (§ 14214) increased the maximum penalty for a general violation of the act from the current \$2,500 to \$10,000 for each violation. The regulations require that live dogs imported into the United States for resale, research, or veterinary treatment be accompanied by an import permit issued by APHIS. APHIS published its proposed rule in September 2011, and the final rule was published August 2013.

Animal Welfare Amendments to the 2014 Farm Bill

While animal fighting or hosting an animal fighting exhibit were prohibited under P.L. 110-22, attendance at animal fighting exhibitions was not. The Animal Fighting Spectator Prohibition Act (H.R. 366, S. 666) was reintroduced in the 113th Congress. The bill would have imposed criminal penalties for attendance at animal fighting exhibitions, or for causing a minor to attend an animal fight. This prohibition on attendance was added to both the 2013 House (H.R. 1947) and Senate (S. 954) farm bills and included in the final bill (Section 112308, P.L. 113-79).

The 2014 farm bill also establishes a new “de minimis” standard for the AWA. The “de minimis” provision applies to the entire AWA and gives APHIS new discretionary authority to exclude licensing and registration requirements for animal dealers and exhibitors dealers “if the size of the business is determined by the Secretary to be ‘de minimis.’” The “de minimis” provision will likely allow a large number of current dealers and exhibitors to avoid APHIS registration and licensing who otherwise would, without the “de minimis” standard, be required to have an AWA license. As of late 2015, the “de minimis” is still in the APHIS clearance process.

Animal Welfare Legislation in the 114th Congress

Horse Protection Act Legislation

The Horse Protection Act (HPA), enacted in 1970 (P.L. 91-540), prohibits the showing, sale, auction, exhibition, or transport of sored horses. Soring is a practice primarily used in the training of Tennessee Walking Horses, racking horses, and related breeds to accentuate the horse’s gait. Horse soring is accomplished by several techniques, including the application of chemicals to irritate or blister a horse’s forelegs, or the use of various mechanical devices.

APHIS is responsible for administering the HPA and for conducting inspections at horse shows, exhibitions, and auctions. In 1976, the Horse Protection Act Amendments were enacted (P.L. 94-360) in response to APHIS’s weak enforcement of the HPA. The act established what became the Designated Qualified Person (DQP) Program, an organizational structure that organizes inspections at horse events. The DQP program was implemented in 1979 (9 C.F.R. 11.7). A DQP is a person who, under the provisions of Section 4 of the HPA, is appointed and delegated authority by the management of a horse show or sale to detect horses that are sored. DQPs are USDA-accredited veterinarians with equine experience, or they are farriers, horse trainers, or

other who have been formally trained and licensed by USDA-certified Horse Industry Organization (HIO).⁹

In 2010, USDA's Office of the Inspector General issued a report on enforcement of the HPA.¹⁰ The report revealed serious shortcomings in the inspection process, with lax enforcement, repeat offenders receiving little or no sanctions, and poor documentation of inspections and sanctions. In particular, the report found that the industry's self-regulation system had not been adequate to ensure that these horses were not being abused. In the wake of this report, the Animal and Plant Health Inspection Service agreed with the analysis and the need to put into place better efforts to enforce the regulations of the HPA.¹¹

The Prevent All Soring Tactics (PAST) Act (H.R. 3268/S. 1121) would amend the HPA to ban "action devices" on horses, modify the existing DQP inspection system, and impose new penalties on HPA violations.¹² The "action devices," like other soring techniques, produce a more pronounced gait in a Tennessee walking horse, a racking horse, or a spotted saddle horse. The amendments apply only these breeds and apply to the sale, showing, or transportation of such horses.

The PAST Act would also end the horse industry's ability to self-police with industry-selected inspectors by creating a new licensing process requiring APHIS to appoint inspectors for HPA-regulated activities and venues. Hiring inspectors would be the responsibility of the show, sale, or auction. The definition of "event management" would be expanded to include "sponsoring organizations" and "event managers." This expansion would make them potentially liable for HPA violations.

The bill would also increase the maximum fine for HPA violations from \$3,000 to \$5,000 as well as raise maximum prison sentence to three years. Trainers with three violations could get a lifetime ban from participating in shows, exhibitions, or auctions. These changes would be applicable to all horse breeds subject to HPA regulation.

Animal welfare organizations have been active supporters of the bills (e.g., American Horse Protection Association, Humane Society of the United States, American Horse Council, and Association for the Prevention of Cruelty to Animals, Animal Welfare Institute, American Association of Equine Practitioners). Horse breeder associations have generally opposed the bill or major portions of the proposed amendments (e.g., Tennessee Walking Horse Breeders and

⁹ An HIO is licensed by APHIS to establish a DPQ training program. An HIO wanting USDA certification must formally apply and present its proposed training program to USDA for approval. In 2009, there were 12 HIOs with APHIS-certified DQP programs that participated with APHIS in annual DQP training seminars, clinics, and educational forums.

¹⁰ USDA. Animal and Plant Health Inspection Service Administration of the Horse Protection Program and the Slaughter Horse Transport Program. Office of the Inspector General. Audit Report 33601-2-KC. September 2010. Report may be accessed at <http://www.usda.gov/oig/webdocs/33601-02-KC.pdf>.

¹¹ See https://www.aphis.usda.gov/wps/portal/aphis/newsroom/news/sa_news/sa_by_date/sa_2012/!ut/p/a1/pZFRb4IwFIV_yx58x4K4Au4NJApgH9lmFF5IgQosQLF0Y-7XD5IZlmU6l_Xp3Oac9t77oQBtUVCRlzwIImcVKY51oIVzz8GyBdid2aoC7tQFazX1FNcedQa_M0xmpqPqCwBQDQyubTm2Pl4CuNp1eThzTPgtv0EBCuJK1CJDPqmvzAljVglaibDII074YQANCSvaNpyx8rPoRXQIEyJorzHI-PhWHecJ8IUAWdMTWcJU0SRVxZpEZDmSdkqsJckYRwmmH39_bc_DjgHunYUfvRUoMNNOhkvr6QOX5p-jIC1Y1LPwzSpSjBQFnO4op3z4zLvrTli6uR3AANq2HaaMpQUdxqz8KZCxRqDtN5_fmDPLlkZoYc_LmZ-BXXMI5N111NRCbl1Y6h7QINL05oet2j6SL5034fmB3uI-DXbo5_867L9bo0FO3eeVvQjUQi49DSjXnzDijPBQo!/?1dmy&uril=wcm%3apath%3a%2FAPHIS_Content_Library%2FSA_Newsroom%2FSA_News%2FSA_By_Date%2FSA_2012%2FSA_06%2FCT_Hpa_finalrule.

¹² An "action device" is a boot, collar, chain, roller, or other device that encircles or is placed upon the lower extremity of the leg of a horse. The devices rotate around the leg or slide up and down the horse's leg causing painful friction.

Exhibitors Association, Tennessee Walking Show Horse Organization, Racking Horse Association of America, National Spotted Horse Breeders and Exhibitors Association).

Another bill introduced in the 114th Congress addresses some of the major concerns of those opposed to the PAST Act. The Horse Protection Amendments Act of 2015 (H.R. 4105/S. 1161) would establish how inspectors are to be appointed and the manner of conducting inspections. The bill would direct USDA to establish the Horse Industry Organization governed by a nine-member board. This board would have two members appointed by the Commissioner of Agriculture for Tennessee and two members appointed by the Commissioner of Agriculture for Kentucky. These members would serve a term of four years. Two additional members of this board would represent the Tennessee Walking Horse Industry and be appointed by the two Commissioners of Agriculture. These representatives would serve a term of three years. The remaining three members of the board would be appointed by the other six members.

This proposed board would establish requirements to appoint individuals to conduct inspections of horses. USDA would certify the Horse Industry Organization for purposes of licensing inspectors. These individuals would be “qualified to detect and diagnose a horse which is sore.” To address potential conflicts of interest by inspectors, the board would prohibit any potential inspector from having employment with, or providing services to any show manager, trainer, owner, or exhibitor of Tennessee Walking Horses, Spotted Saddle Horses, or Racking Horses. Nor could a potential inspector train, exhibit, show, breed, or sell Tennessee Walkers, Racking Horses, or Spotted Saddle Horses.

Animal Welfare in Agricultural Research Endeavors Act (H.R. 746/S. 388)

In January 2015, the *New York Times* (NYT) published an exposé of research activities at the U.S. Meat Animal Research Center located near Clay Center, Nebraska. The center is a USDA facility overseen by USDA’s Agricultural Research Service (ARS). The news article described “unsanitary housing and brutal treatment of pigs; violent forced mating between bulls and cows; and hormonal experiments conducted on sheep,” among other animal welfare issues.

The research practices reported in the NYT article raised significant public concern about animal welfare standards at the center. It prompted the Secretary of Agriculture to order USDA staff to deliver an updated Animal Welfare Strategy plan for the center and other ARS laboratories within 60 days. The Secretary also announced the appointment of an animal welfare ombudsman to coordinate USDA’s review of animal welfare at the center and other ARS laboratories.¹³

The AWA currently excludes farm animals from AWA coverage, and also excludes federal research institutions from AWA registration and inspection.¹⁴ H.R. 746/S. 388 (the Animal Welfare in Agricultural Research Endeavors Act) would amend the AWA to require that farm animals and federal laboratories using farm animals be subject to AWA regulations. The bill was referred to the House Agriculture Committee, but no further action was taken as of late 2015.

¹³ CRS Report R44091, *Meat Animal Research Center: The Animal Welfare Act and Farm Animal Research*, by Tadlock Cowan and Joel L. Greene.

¹⁴ While ARS laboratories are excluded from AWA oversight, ARS does follow very similar standards through its own animal welfare guidance documents.

Pet Safety and Protection Act (H.R. 2849)

Critics have long asserted that the limited number of Class B dealers who still collect dogs and cats from random sources, including “free to a good home” classified ads, auctions, and flea markets, are more concerned about profit than animal welfare. Others have contended that passage would leave no viable sources of random source dogs and cats, which are needed by medical and veterinary researchers because of their genetic and age diversity, and that the majority of Class B dealers are in compliance with the AWA.

A National Research Council (NRC) report on the issue published in May 2009 concluded that random source dogs and cats may be desirable and necessary for certain types of biomedical research but that “it is not necessary to acquire them through Class B dealers, as there are adequate numbers of such animals from shelters and other sources.” The NRC noted that of the more than 1,000 Class B dealers in the United States, at last count only 11 of them acquired and sold live dogs and cats for research and teaching. The report’s conclusions and recommendations applied only to these 11 dealers that may supply such animals for research funded by the National Institutes of Health.

The report discussed in more detail the advantages and disadvantages of random source dogs and cats, which constitute less than 1% of all laboratory animals; evaluates the Class B dealer system, under which (it found) animal standards of care appear to vary greatly; and offers alternative options for obtaining random source animals. These alternatives include partnering with pet owners, veterinarians, breeders, and others; obtaining animals from Class A dealers and through donations from small breeders and hobby clubs; and acquiring animals directly from pounds and shelters, among others.

The Pet Safety and Protection Act was reintroduced in the 114th Congress as H.R. 2849 and would amend the AWA to limit the sources of random source dogs and cats to a licensed dealer (under Section 3 of the AWA) who has bred and raised the animal; a publicly owned or operated pound or shelter that meets certain qualifications; someone donating the dog or cat that bred and raised the animal or owned it for not less than one year; and research facilities licensed by the Secretary of Agriculture. The bill also would subject violators to a fine of \$1,000 per violation, over and above any other applicable penalties. The bill was referred to committee, and no further action was taken as of late 2015.

Enforcement Transparency Act of 2015 (H.R. 3136)

The Enforcement Transparency Act would require the Secretary of Agriculture to publish guidelines on USDA’s website relating to the calculation of civil fines for violations under the AWA. The guidelines would require quarterly updates and the updates published in the *Federal Register*.

Animal Emergency Planning Act of 2015 (H.R. 3193)

Disasters can leave animals as vulnerable as humans. Past natural disasters such as Hurricanes Katrina and Sandy highlighted the need for planning to minimize the effects of such disasters. The Animal Emergency Planning Act would amend the AWA to require research facilities, animal dealers, handlers, exhibitors, and carriers to develop and document a contingency plan to provide for the humane handling, treatment, housing, and care of animals in the event of an emergency or disaster.

Orca Responsibility and Care Advancement Act of 2015 (H.R. 4019)

Humane care and handling of marine mammals are also covered under AWA regulation. Following widespread dissemination in 2015 of a film about captive orcas at Sea World (“Black Fish”), media and public attention to captive marine mammals (e.g., porpoises, whales, orcas) increased significantly. The Orca Responsibility and Care Advancement Act would amend both the AWA and the Marine Mammal Protection Act of 1972 to prohibit the capture, importation, and exportation of orcas for purposes of public display. The bill would also amend the AWA to prohibit the breeding of orcas for exhibition purposes.

Safe Transport for Horses Act (S. 946) and the Horse Transportation Safety Act (H.R. 1282)

Animal welfare activists have argued that hauling horses in double-decker trailers is dangerous and inhumane. Because double-deckers were designed for hauling cattle and hogs, the trailers do not provide sufficient headroom for horses to stand up straight. S. 946 and H.R. 1282 would amend the Transportation title (49 U.S.C. 80502) to prohibit interstate transportation of horses in motor vehicles containing two or more levels stacked on top of one another.

Refuge from Cruel Trapping Act (H.R. 2016/S. 1081)

The National Wildlife Refuge System, managed by the Fish and Wildlife Service, permits wildlife trapping in over half the system’s refuges. Body-gripping traps such as snares and steel-jaw leg-hold traps can kill and maim non-target animals. Even when trapping target animals, the traps are considered to be cruel and inhumane by animal welfare groups. The Refuge from Cruel Trapping Act would amend the National Wildlife Refuge System Act of 1966 (16 U.S.C. 668dd et seq.) by banning the possession or use of body-gripping traps in wildlife refuges, and impose civil fines and forfeiture for violations.

Pending APHIS Regulatory Actions

In March 2015, APHIS filed public notices in the *Federal Register* regarding the agency’s consideration of two petitions they had received that could require changes to existing AWA regulations. The first petition, received in 2013, was from the Physicians Committee for Responsible Medicine.¹⁵ The petition requests that APHIS initiate rulemaking to add a definition of the term “alternatives” in order to define what a primary investigator at a facility using animals as research models is required to consider in lieu of a procedure that may cause more than momentary or slight pain or distress to an animal. The petition further requests that APHIS amend the existing definition of “painful procedure” to codify long-standing APHIS policy that a procedure should be considered painful if it may cause more than momentary or slight pain or distress to the animal. APHIS is currently considering public comments and supporting documents received by May 29, 2015.

The second petition, published May 1, 2015, concerns the social and psychological well-being of primates in captivity.¹⁶ Following a decision by the National Institutes of Health in 2013 to retire

¹⁵ *Federal Register*, Vol. 80, No. 60, 16592. March 30, 2015. <https://www.federalregister.gov/articles/2015/03/30/2015-07221/petition-to-define-alternatives-to-procedures-that-may-cause-pain-or-distress-and-to-establish>.

¹⁶ *Federal Register*, Vol. 80, No. 84, 24840. May 1, 2015. [https://www.federalregister.gov/articles/2015/05/01/2015-\(continued...\)](https://www.federalregister.gov/articles/2015/05/01/2015-(continued...))

most of its chimpanzees used in biomedical research, and to house them in sanctuaries suitable to their natural social groups and behaviors, animal welfare activists turned their attention to the estimated 110,000 other primates in research laboratories. These primates, like chimpanzees, are also highly social animals. The New England Anti-Vivisection Society filed a petition with APHIS asking for specific rules on the care of all primates regarding their social and psychological well-being. APHIS took public comments until June 30, 2015, and is currently considering them.

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10195/petition-to-develop-specific-ethologically-appropriate-standards-for-nonhuman-primates-in-research.