



Animal Protection Index

API 2020



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Next Page: A humpback whale breaching.
Photo: World Animal Protection.



Executive summary

In 2014 World Animal Protection published its first Animal Protection Index (API) – an ambitious assessment of the laws around the humane treatment and care of animals in 50 countries. The initial report included an evaluation of the United States, where both federal and state regulations govern animal protection.

In the United States, most animal welfare laws originate at the state level. Because of this, animal protection laws are inconsistent and, at times, contradictory across state lines. In 2014, only a few key laws existed at the federal level:

- The Animal Welfare Act (Laboratory Animal Welfare Act of 1966), which set general standards for certain animals bred for commercial sale, used in public exhibitions or biomedical research, or transported commercially;
- The Horse Protection Act of 1970, which prohibits sore horses from participating in shows, exhibitions, sales, or auctions; and
- The Humane Methods of Slaughter Act of 1958, which requires humane slaughter for certain animal species.

United States progress since the 2014 API Report

Since 2014, the US has enacted several pieces of legislation at state and federal levels that have been positive for animal welfare. California passed Proposition 12 – considered one of the most progressive animal welfare laws in the world – in November 2018, which sets such specific space requirements for animals raised for food that it effectively bans cages for egg-laying hens, sow stalls, and calf crates. California also passed the Circus Cruelty Prevention Act in May 2019, outlawing the use of wild animals in circuses, and in October 2019 became the first state to ban the sale of fur (beginning January 1, 2023). California and Maryland both passed legislation prohibiting pet stores from sourcing animals from commercial breeders. Massachusetts passed two Protect Animal Welfare and Safety (PAWS) Acts: PAWS of 2014 established an animal welfare task force; and PAWS II aims to improve cross-reporting of animal cruelty to law enforcement agencies, prevent the automatic euthanasia of animals confiscated from the animal fighting industry, and modernize state prohibitions against animal sexual abuse. Michigan passed legislation in November 2019 to mandate cage-free conditions for egg-laying hens and prohibit the sale of non-cage-free eggs by December 2024. Last, at the federal level, Congress unanimously passed the Preventing Animal Cruelty and Torture Act (PACT) in November 2019, which makes animal crushing a federal crime and which President Donald Trump signed into law.

United States rating - D

Based on our ratings scale (available on the last page of this report), the US receives a D for its approach to ensuring animal protections. The major issues that impact this rating are:

- The federal government's key legislations limit which animal species and groups are covered
- Most animal protections are created at the state, not federal, level
- The number of exemptions or exceptions allowed in both federal and state legislation
- Lack of transparency regarding animal welfare enforcement reports and audits

Animal protection laws in the US have much room for improvement. The Animal Welfare Act's (AWA) provisions do not apply to birds, to rats or mice used in research, to horses – except if they are being used in research – or to farmed animals. The US Department of Agriculture (USDA) oversees and regulates animal protection laws on a limited number of issues; its subsidiary,



Above: Baby chicks. Stock photo, Shutterstock®.

the Animal and Plant Health Inspection Service (APHIS), federally enforces the AWA. Yet in February 2017, the USDA removed public access to thousands of reports on the number and humane treatment of animals kept by research laboratories, zoos, circuses, animal transporters, and other businesses. Compelled by Congress, the USDA began restoring the deleted database in February 2020, but at the time of writing, the restoration of records was incomplete. The US also allows the continued practice of fur farming and allows animals to be used for various entertainment purposes.

Expand the Animal Welfare Act to protect more animals

As World Animal Protection works to create a more humane world, we urge the US government to make a deeper commitment to ensuring greater protections for animals. This includes:

- Recognizing all vertebrates, cephalopods, and decapod crustaceans as sentient; and
- Expanding the provisions of the AWA to apply to all sentient animals;
- Amending the PACT Act to remove exemptions for animals killed for food or used in scientific research;
- Building further on California's Proposition 12 to ban the worst forms of confinement for farmed animals;
- Banning the production and sale of fur products, since fur farming is inherently cruel and causes pain, distress, and suffering to animals;
- Outlawing cruel forms of entertainment that cause animal suffering, such as their use in circuses, rodeos, fights, races, rides, and the use of marine mammals in shows; and
- Supporting the reintroduction of the Humane Cosmetics Act to phase out cosmetic animal testing and the sale of cosmetics tested on animals.

Further legal and policy recommendations are associated with each indicator and contained in the relevant sections of our report.

Animal Protection Index Indicators

Goal 1: Recognizing Animal Sentience and Prohibiting Animal Suffering

1. Animal sentience formally recognized in legislation

Legislative Analysis

Ranking

D

Federal and state legislation do not acknowledge animal sentience, though some laws recognize that animals can suffer.

The federal Animal Welfare Act (originally titled the Laboratory Animal Welfare Act of 1966)¹ requires avoiding or minimizing pain and distress during experimental procedures. It also requires dealers, exhibitors, and research facilities to ensure that environments provided for non-human primates promote the “psychological well-being” of the animals. The Humane Slaughter Act of 1978 (originally enforced as the Humane Methods of Slaughter Act of 1958)² requires using humane methods in the slaughter of livestock to prevent needless suffering.

The AWA has a narrow scope in how it defines animals, and animals the legislation covers. It refers only to “any live or dead dog, cat, monkey (non-human primate mammal), guinea pig, hamster, rabbit, or such other warm-blooded animal, as the Secretary may determine is being used, or is intended for use, for research, testing, experimentation, or exhibition purposes, or as a pet.” It explicitly excludes birds, rats, and mice bred for use in research, horses not used for research purposes, farmed animals such as livestock or poultry, and all cold-blooded animals, including fish, amphibians, and reptiles.

State legislation on animal welfare is both limited and inconsistent. Many state laws include language regarding the physical and psychological suffering of animals, but they rarely include language on animal sentience. New York’s Elephant Protection Act of 2017, for example, prohibits the use of elephants in any type of entertainment act, acknowledging that “elephants are complex, highly intuitive, and intelligent.”³

Analysis

States produce much of the animal welfare legislation in the US, but those laws often vary dramatically state by state, creating a significant barrier to recognizing animals as sentient.

The AWA, as the key federal legislation addressing animal welfare, recognizes animals can suffer or experience distress – yet does not define animals as sentient.

The AWA also includes several exemptions. By excluding farmed animals, it eliminates the overwhelming majority of animals in the country. Excluding rats and mice used in research from the partial recognition of sentience is also a considerable barrier to improving animal welfare, since they are an estimated 95% of animals used in research.⁴

The Animal and Plant Health Inspection Service (APHIS) at the US Department of Agriculture (USDA), which enforces the AWA, has no statements that mention animal sentience, the science of it, or the levels of awareness and consciousness in animals – nor to the importance of protecting animals for their own sake as conscious beings.

¹ <https://www.animallaw.info/article/animal-welfare-act>

² <https://www.govinfo.gov/content/pkg/USCODE-2014-title7/pdf/USCODE-2014-title7-chap48.pdf>

³ <https://www.nysenate.gov/legislation/bills/2017/s2098/amendment/b>

⁴ <https://www.animallaw.info/article/overview-us-animal-welfare-act>



Above: Grizzly bears near the Alaska Wildlife Conservation Centre in Alaska, USA. Photo: World Animal Protection/Claire Bass.

Enforcement mechanisms

APHIS at the USDA carries out enforcement of the Animal Welfare Act and the Humane Slaughter Act.

The ability of APHIS to conduct animal welfare enforcement is limited thanks to the low number of federal inspectors – under 100 – available to investigate all industries that use animals, including farms, puppy mills, and circuses across the country. Instead, states carry out most of the enforcement measures for relevant anti-cruelty statutes.

Key recommendations

- The current version of the AWA only recognizes certain aspects of sentience and does not give protection to all animals. We strongly encourage the federal government to widen provisions of the AWA to apply to all categories and uses of animals.
- Given the extensive body of scientific evidence proving animal sentience, we also encourage the federal government to recognize animals for whom there is scientific evidence – at a minimum, all vertebrates, cephalopods, and decapods crustaceans – as sentient beings, and adapt this principle into legislation. Recognizing animals as sentient will strengthen future animal welfare legislation.

2. Animal protection laws that prohibit causing animal suffering either by a deliberate act of cruelty or by a failure to act

Legislative Analysis

Ranking



The Puritan colonies in America were the first in the world to introduce animal protection legislation.⁵ By the 19th century, states were introducing anti-cruelty legislation;⁶ and by 1921, every state had an anti-cruelty statute.⁷ Since then, public support has increased for treating animal cruelty as a felony rather than a misdemeanor.

While the AWA does not contain a general anti-cruelty provision, it refers to preventing the suffering of animals in specific circumstances. The Animal and Plant Health Inspection Service (APHIS) under the USDA oversees enforcement of the AWA. It also produced the Animal Welfare Regulations to convert the AWA into enforceable standards.

The federal Horse Protection Act⁸ prohibits sore horses from participating in shows, exhibitions, sales, or auctions; and prohibits transporting sore horses to or from any of these events.⁹ In spite of covering sore horses, the AWA does not contain a general anti-cruelty provision.

The federal Humane Slaughter Act requires using humane methods in slaughtering livestock to prevent needless suffering, to ensure safer and better working conditions, and to benefit producers, processors, and consumers,¹⁰ but again makes exceptions for certain animals (poultry and fish). In September 2019, the USDA approved new rules to allow faster slaughter lines and to replace state inspection officials at pig slaughterhouses with company employees.¹¹

The federal Animal Crush Video Prohibition Act of 2010¹² banned the creation and distribution of obscene animal torture videos – known as “animal crushing” – that show the intentional crushing, burning, drowning, suffocating, or impaling of puppies, kittens, and other live animals for entertainment.

The latest federal legislation is the Preventing Animal Cruelty and Torture (PACT) Act 2019,¹³ unanimously passed by Congress and signed into law by President Trump in November.¹⁴ The PACT Act makes engaging in animal crushing a federal crime, including creating or distributing animal crush videos, photographs, digital recordings, or electronic images.

Like other federal laws, the PACT Act allows exceptions for normal or customary veterinary, agricultural husbandry, or other animal management practices; the slaughter of animals for food; hunting, trapping, fishing, or another sporting activity not otherwise prohibited by federal law; medical or scientific research; as necessary to protect the life or property of a person; or performed during animal euthanasia.

At the state level, where most anti-cruelty legislation is created and enacted, statutes vary drastically, exclude specific animals or acts, or grant several exceptions from those regulations. Thirty-four states specifically exclude livestock from anti-cruelty regulations. Some state laws create cruelty offenses by reference to causing suffering, while others do not.^{15,16} Still, all states now have statutes for felony prosecution of certain acts of animal abuse or cruelty after South Dakota became the final state to enact felony penalties for certain forms of animal abuse and cockfighting in March 2014.^{17,18}

Since the publication of the first API, a few states have enacted notably progressive animal protection legislation. Massachusetts passed the first Protect Animal Welfare and Safety (PAWS) Act in 2014, following the notorious Puppy Doe cruelty case. Under PAWS, Massachusetts formed an animal welfare task force, whose recommendations helped get the PAWS II Act passed. The PAWS II goals are to improve cross-reporting of animal cruelty among law enforcement agencies and protective services; prevent the automatic euthanasia of animals confiscated from the animal fighting industry, and modernize the state’s prohibitions against animal sexual abuse. PAWS II also requires property owners and other businesses to inspect properties for abandoned animals and mandates that insurance companies collect relevant data in the event of a dog-related incident, and explicitly prohibits drowning animals.¹⁹ In November 2018, California passed Proposition 12, which sets such specific minimum space requirements for animals raised for food in that state that it has effectively banned cages for laying hens, sow stalls, and calf crates and requires that chickens must be cage-free by 2022.²⁰

The Animal Legal Defense Fund publishes an annual compendium of general animal protection and related statutes for all the states, principal districts and territories of the United States and Canada, which offers an overview of the legislation of each state.²¹ Common themes include protecting animals from cruel treatment, abandonment, poisoning, and providing food, water, and shelter.

⁵ Emily Stewart Leavitt and Diane Halverson, *The Evolution of Anti-Cruelty Laws in the United States*, in: *Animals and Their Legal Rights in A Survey of American Laws from 1641 to 1990*, Animal Welfare Institute, 1990

⁶ David Favre & Vivien Tsang, *The Development of the Anti-Cruelty Laws During the 1800s*, *Detroit College of Law Review*, 1993 accessed at: <http://www.animallaw.info/articles/arusfavrehistcruelty1993.htm#The%20Legal%20Framework%20in%20the%20United%20Stat>

⁷ Judith Ho, *Information Resources on Human-Animal Relationships Past and Present*, Animal Welfare Information Center (AWIC) Resource Series No. 30, US Department of Agriculture, Agricultural Research Service, National Agricultural Library Animal Welfare Information Center, March 2005

⁸ https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/hpa/ct_hpa_reg_sections

⁹ https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/SA_HPA

¹⁰ <https://www.govinfo.gov/content/pkg/USCODE-2014-title7/pdf/USCODE-2014-title7-chap48.pdf>

¹¹ <https://www.theguardian.com/environment/2019/sep/18/us-moves-to-scrap-speed-limits-on-pig-slaughter-lines>

¹² <https://www.congress.gov/bill/111th-congress/house-bill/5566>

¹³ <https://www.congress.gov/bill/116th-congress/house-bill/724/text>

¹⁴ <https://edition.cnn.com/2019/11/26/politics/donald-trump-animal-cruelty-act-signed-trnd/index.html>

¹⁵ <https://blog.humanesociety.org/wp-content/uploads/2018/12/State-Rank-2018-MT-WY-1.pdf>

¹⁶ <https://www.avma.org/javma-news/2014-06-15/south-dakota-last-state-make-animal-cruelty-felony>

¹⁷ <https://www.avma.org/javma-news/2014-06-15/south-dakota-last-state-make-animal-cruelty-felony>

¹⁸ Rebecca F. Wisch, *Overview of State Cruelty Laws*, 2005, updated 2010 available at: <https://www.animallaw.info/intro/state-anti-cruelty-laws>

¹⁹ <https://www.arlboston.org/legislators-pass-paws-ii-bill-formal-session-ends/>

²⁰ <https://www.theguardian.com/us-news/2018/nov/08/california-animal-welfare-cage-free-eggs-prop-12-passes>

²¹ <https://aldf.org/project/us-state-rankings/>

Analysis

The AWA's limited scope for animals protected under the law creates a major hurdle to creating consistent welfare standards nationwide. States have produced anti-cruelty laws individually over the last 120 years,²² resulting in wildly varying standards and numerous exceptions. Federal laws apply only in limited situations, such as transporting animals over state lines or in the impact on human health. Because poultry is excluded from both the Humane Slaughter Act and the Animal Welfare Act, nine billion of the 10 billion land animals killed for food in the US have no federal protection from inhumane treatment on farms, during transport, or at the slaughterhouse.²³

The recent PACT Act expands on the Animal Crush Video Prohibition Act of 2010, by closing a loophole that did not criminalize the cruelty perpetrated in the videos. Still, the PACT Act contains wide exemptions, including ones for animal agricultural and science industries.

State rankings

In 2018 Illinois, Oregon, and California ranked among the top five states for animal protection legislation, while Kentucky, North Dakota, and Iowa sat at the bottom, according to the Animal Legal Defense Fund and the Humane Society of the United States.^{24,25} In the past two decades, even as states have steadily upgraded animal cruelty and abuse from misdemeanors to felonies, they have also increased the number of exceptions to those laws. In 2013, 34 states specifically excluded farmed animals from anti-cruelty legislation – a number unchanged in 2018.^{26,27}

With a state-by-state approach, it is difficult to bring legislation in line with current scientific data regarding animal needs or to compete against the interests of business lobbies to introduce more progressive laws.²⁸ Public support for increased humane treatment and protection for animals, however, along with a growing and well-supported animal movement, help bans on cockfighting, bear-baiting, horse slaughter, and implementing other animal protection measures succeed.

²² David Favre, "Overview of the US Animal Welfare Act," Animal and Legal Historical Centre, 2002 (available at <https://www.animallaw.info/article/overview-us-animal-welfare-act>)

²³ <http://www.fsis.usda.gov/wps/portal/food-safety-education/get-answers/food-safety-fact-sheets/production-and-inspection/key-facts-humane-slaughter/key-facts-humane-slaughter>

²⁴ <https://blog.humanesociety.org/wp-content/uploads/2018/12/Total-Scores-2018-FINAL-1.pdf>

²⁵ <https://aldf.org/project/us-state-rankings/>

²⁶ <https://blog.humanesociety.org/wp-content/uploads/2018/12/State-Rank-2018-AL-MO-1.pdf>

²⁷ <https://blog.humanesociety.org/wp-content/uploads/2018/12/State-Rank-2018-MT-WY-1.pdf>

²⁸ Corwin R. Kruse, Adding A Bit More Bite: Suggestions For Improving Animal-Protection Laws In Minnesota, William Mitchell Law Review, 2008 available at <http://www.animallaw.info/articles/arus34wmmitchellRev1405.htm>

²⁹ Elizabeth R. Springsteen Animal Cruelty Statutes: A State-By-State Analysis, National Agricultural Law Center



Above: Puppy. Stock photo, Shutterstock®.

Enforcement mechanisms

Every state includes anti-cruelty penalties, including fines and prison sentences for some misdemeanors or felonies. Several states restrict more serious penalties to people who commit cruelty against companion animals.²⁹

Some states allow judges to order psychiatric counseling for cruelty offenders, seize abused animals, and to prohibit offenders from owning animals for several years. Under the federal PACT Act, animal cruelty convictions also include fines, felony charges, and up to seven-year prison terms.

Key recommendations

- Federal legislation does not include general anti-cruelty provisions. Under the current versions of the Animal Welfare Act and the Humane Slaughter Act, protections are restricted to certain animals. World Animal Protection urges the US to update both acts to remove exemptions and to apply those protections to all vertebrates, cephalopods, and decapod crustaceans.
- States enact most of the anti-cruelty legislation available, resulting in wide discrepancies in animal protections. We urge the federal government to amend the AWA to include a legally binding, anti-cruelty provision applicable to all animals. Animal sentience should provide the rationale for establishing such anti-cruelty law. We also encourage the US to produce animal welfare strategies with clear targets that can serve as mandatory guidelines for states to provide a consistent approach to animal welfare legislation. We also urge Congress to amend the PACT Act of 2019 to remove exemptions from the law.
- World Animal Protection recommends the federal and state governments use the yearly Indices produced by the Animal Legal Defense Fund and the Humane Society of the United States to fill legislative gaps that currently allow animal abuse to occur.

Goal 2: Presence of Animal Welfare Legislation

3. There are laws that apply to animals used in farming including rearing, transport, and slaughter

Legislative Analysis

Ranking



Rearing

No federal legislation exists that protects farmed animals during rearing.³⁰ The AWA explicitly excludes farmed animals, although it protects them (except poultry and fish) during transport and slaughter. As we noted earlier, 34 states specifically exclude livestock from anti-cruelty provisions, a number unchanged since 2013.^{31,32} Other states have exceptions for practices carried out under generally accepted husbandry methods.

Local advocacy campaigns have played an influential role in increasing animal protection legislation, most notably around confinement systems. Eleven states have introduced measures to prevent the use of the most egregious of these systems, requiring that animals be able to stand up, lie down, and turn around.^{33,34}

California's Proposition 12 succeeded through the efforts of Prevent Cruelty California, a coalition of animal welfare organizations, veterinarians, food safety groups, and farmworkers. Prevent Cruelty California gathered more than the 600,000 signatures needed for Proposition 12 to qualify as a ballot initiative – which passed with 63% of the vote in November 2018.

California state legislators created other proposals to establish stronger animal welfare standards. In 2004 they banned the sale and production of foie gras from force-feeding geese and ducks.³⁵ In addition to legislation, many livestock production industries have proactively implemented science-based animal care guidelines to meet consumer demand for increased humane treatment, and work with third parties to audit their practices.³⁶

Pig rearing: There is no federal ban on using sow stalls or farrowing crates. In 2002 Florida became the first state to prohibit gestation crates for pigs, followed by states like Arizona in 2006, Oregon in 2007, and Michigan in 2009. Several food companies are also phasing them out voluntarily.³⁷

Broiler chicken rearing: There is no federal legislation limiting broiler chicken stocking density (the mass per unit of space for chickens in a given area).

Egg-laying hen rearing: There are no federal restrictions regarding the confinement of egg-laying hens. Michigan banned battery cages in 2009, California in 2018, and Oregon and Washington in 2019. In Michigan, Senate Bill 0174 passed in November 2019, making it illegal to produce and sell eggs from cage operations after 2024.³⁸ This legislation also requires enrichments such as dust-bathing areas, perches, and nest boxes.

Dairy cattle and calf rearing: No federal legislation bans veal crates. Arizona prohibited veal crates in 2006, Michigan in 2009, and Maine in 2011. Ohio banned veal crates and dairy cow tail-docking effective as of 2018.³⁹

Transport

The Twenty-Eight Hour Law of 1906⁴⁰ covers interstate transport of animals for sale or slaughter and was last amended in 1994. The law requires resting, feeding, and watering periods every 28 hours.

Slaughter

The Humane Slaughter Act⁴¹ requires cattle, calves, horses, mules, sheep, and swine to be handled and slaughtered humanely, with exemptions for religious slaughter, poultry, and fish.

The Federal Meat Inspection Act of 1906⁴² covers inspection of handling and slaughter methods for cattle, calves, horses, mules, sheep, swine, and goats to ensure compliance with the Humane Methods of Slaughter Act. The federal Food Safety and Inspection Service (FSIS) carries out inspections.⁴³

Horse slaughterhouses ceased operating in the US in 2007. The Obama administration blocked a move to resume horse slaughter in 2014.⁴⁴ Instead, horses are transported to Mexico or Canada for slaughter and their meat used, but not for human consumption.⁴⁵ In 1996 Congress passed the Commercial Transportation of Equines for Slaughter Act,⁴⁶ instituting certain welfare measures to ensure vehicles used are “designed, constructed, and maintained in a manner that at all times protects the health and well-being” of the animals, but since amended to prohibit using double-deck trailers.

In 2009, the US banned the slaughter of “downed” cows (those too sick, weak, or injured to stand) for food.⁴⁷ If a cow walks a few steps at the slaughterhouse, however, it may be killed on a case-by-case basis. Legislation has not been introduced to spare the suffering of other types of downed animals. As of 2018, 22 states have humane slaughter legislation.^{48,49}

³⁰ David J. Wolfson, “Beyond the Law: Agribusiness and the Systematic Abuse of Animals Raised for Food or Food Production.” *Animal Law* 2, no. 123, 1996.

³¹ <https://blog.humanesociety.org/wp-content/uploads/2018/12/State-Rank-2018-AL-MO-1.pdf>

³² <https://blog.humanesociety.org/wp-content/uploads/2018/12/State-Rank-2018-MT-WY-1.pdf>

³³ Elizabeth R. Rumley, *States’ Farm Animal Confinement Statutes*, National Agricultural Law Center available at <http://nationalaglawcenter.org/state-compilations/farm-animal-welfare/>

³⁴ <http://news.softpedia.com/news/The-State-of-Kentucky-in-the-US-Bans-Cruel-Veal-Crates-431637.shtml>

³⁵ https://ballotpedia.org/California_Proposition_12,_Farm_Animal_Confinement_Initiative_%282018%29

³⁶ <https://www.nal.usda.gov/awic/animal-welfare-audit-and-certification-programs>

³⁷ <https://www.ciwf.com/farmed-animals/pigs/welfare-issues/>

³⁸ <http://www.legislature.mi.gov/documents/2019-2020/publicact/pdf/2019-PA-0132.pdf>

³⁹ <https://blog.humanesociety.org/2018/01/ohios-long-awaited-reforms-veal-calves-dairy-cows-kick.html>

⁴⁰ <https://www.govinfo.gov/content/pkg/USCODE-2011-title49/pdf/USCODE-2011-title49-subtitleX-chap805-sec80502.pdf>

⁴¹ <https://www.govinfo.gov/content/pkg/USCODE-2014-title7/pdf/USCODE-2014-title7-chap48.pdf>

⁴² <https://www.fsis.usda.gov/wps/portal/fsis/topics/rulemaking/federal-meat-inspection-act>

⁴³ <http://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/production-and-inspection/key-facts-humane-slaughter/key-facts-humane-slaughter>

⁴⁴ <https://blog.humanesociety.org/2015/12/omnibus-bill-bars-horse-slaughter-retains-federal-protections-for-wolves-and-elephants.html>

⁴⁵ <https://americanwildhorsecampaign.org/media/nj-home-last-horse-slaughterhouse-us>

⁴⁶ <https://www.federalregister.gov/documents/2011/09/07/2011-22762/commercial-transportation-of-equines-to-slaughter>

⁴⁷ <https://www.federalregister.gov/articles/2009/03/18/E9-5987/requirements-for-the-disposition-of-cattle-that-become-non-ambulatory-disabled-following-ante-mortem>

⁴⁸ <https://blog.humanesociety.org/wp-content/uploads/2018/12/State-Rank-2018-AL-MO-1.pdf>

⁴⁹ <https://blog.humanesociety.org/wp-content/uploads/2018/12/State-Rank-2018-MT-WY-1.pdf>

Analysis

The lack of federal legislation and inconsistent provisions of state legislation to protect the welfare of all farmed animals during rearing, transport, and slaughter create barriers to improving animal welfare.

In 2006 the USDA confirmed the Twenty-Eight Hour Law was never intended to apply to poultry and that it had no intention of changing this.⁵⁰ Twenty-Eight Hour Law enforcement is also problematic because neither the USDA nor the Department of Justice can monitor truck transport.⁵¹ APHIS did not feature enforcement of this law in its 2010-2015 plan nor its 2015-2019 version.⁵²

In January 2012, approximately 800 slaughterhouses were killing approximately 1.5 billion farmed animals, inspected by the Food Safety and Inspection Service (FSIS).⁵³ FSIS did not have updated numbers on slaughterhouses as of May 2019. The USDA also reported in 2012 that 300 poultry slaughterhouses killed approximately nine billion birds a year. Though poultry is excluded from federal humane slaughter legislation, the FSIS states it ensures compliance with “poultry good commercial practices” under the Poultry Products Inspection Act.^{54,55}

The USDA has faced severe criticism for failing to enforce the Humane Slaughter Act, including in 2008, during congressional hearings that took place after an undercover investigation of a California slaughterhouse led to the largest meat recall in US history.⁵⁶

In 2013, the FSIS produced its first “Compliance Guide for a Systematic Approach to the Humane Handling of Livestock,” with a sample humane handling plan and assessment tool for slaughterhouses.⁵⁷ Earlier that year, the nonprofit Animal Welfare Institute petitioned the FSIS to improve conditions at slaughterhouses, after AWI published a review of 1,000 violations of federal law obtained using the Freedom of Information Act (FOIA). AWI’s review found that since the USDA’s 2004 recommendation that all slaughterhouses take a systematic approach to humane slaughter as the best means of ensuring compliance with legislation, only 35% of federally inspected plants, and very few state-inspected plants, had developed such plans.⁵⁸

In 2013, a USDA Office of the Inspector General audit of 30 swine slaughterhouses found that FSIS inspectors failed to take enforcement action at eight slaughterhouses for federal law violations; and out of 158 violations issued, inspectors did not issue suspensions in 10 instances of egregious violations.⁵⁸

While USDA inspectors are placed within slaughterhouses and empowered to stop slaughter lines when they witness inhumane practices, they are paid by the very companies they are supposed to monitor. This situation has resulted in audits and hearings that exposed lax enforcement of the Humane Slaughter Act.^{60,61}

Agricultural business lobbies, known as “Big Ag,” also have a powerful influence over farmed animal legislation.⁶² Big Ag supports the Animal Enterprise Terrorism Act⁶³ which restricts activities by animal protection advocates. Lobbyists have also fought against exposure of animal cruelty involving farmed animals, using significant financial resources to attempt to prohibit undercover investigations and whistleblower actions legally.⁶⁴ Such moves have been defeated in states such as Idaho, Wyoming, and Texas,⁶⁵ but lobbyists in Alabama, Arkansas, Iowa, Missouri, Montana, North Carolina, and North Dakota succeeded in criminalizing farm whistleblowing.

More businesses, however, are following consumer demand for increased humane treatment and are introducing their own standards. Companies such as McDonald’s, United Egg Producers, and Smithfield have developed their own private husbandry standards.^{66,67,68} Independent quality assurance programs such as Certified Humane, American Humane Certified, Animal Welfare Approved, and the Global Animal Partnership also exist.^{69,70,71,72} Public opinion also makes an impact, as the passage of Proposition 12 in California illustrates.

⁵⁰ https://www.beefmagazine.com/28_Hour_Rule

⁵¹ M. Engebretson, Chapter 9: North America, in *Long Distance Transport and Welfare of Farm Animals*, edited by M.C. Appleby et al, WSPA, 2008.

⁵² <https://www.aphis.usda.gov/aphis/banner/aboutaphis>

⁵³ <https://www.fsis.usda.gov/wps/portal/food-safety-education/get-answers/food-safety-fact-sheets/production-and-inspection/key-facts-humane-slaughter/key-facts-humane-slaughter>

⁵⁴ <http://www.fsis.usda.gov/wps/portal/food-safety-education/get-answers/food-safety-fact-sheets/production-and-inspection/key-facts-humane-slaughter/key-facts-humane-slaughter>

⁵⁵ FSIS Compliance Guide for a Systematic Approach to the Humane Handling of Livestock, October 2013 available at: <http://www.fsis.usda.gov/wps/wcm/connect/da6cb63d-5818-4999-84f1-72e6dabb9501/Comp-Guide-Systematic-Approach-Humane-Handling-Livestock.pdf?MOD=AJPERES>

⁵⁶ Tadlock Cowan, *Humane Treatment of Farm Animals: Overview and Issues*, Congressional Research Service, May 9, 2011 available at: <http://nationalaglawcenter.org/wp-content/uploads/assets/crs/RS21978.pdf>

⁵⁷ FSIS Compliance Guide for a Systematic Approach to the Humane Handling of Livestock, October 2013 available at: <http://www.fsis.usda.gov/wps/wcm/connect/da6cb63d-5818-4999-84f1-72e6dabb9501/Comp-Guide-Systematic-Approach-Humane-Handling-Livestock.pdf?MOD=AJPERES>

⁵⁸ <http://www.prnewswire.com/news-releases/animal-welfare-institute-petitions-usda-to-make-slaughter-more-humane-210073401.html>

⁵⁹ <http://www.usda.gov/oig/webdocs/24601-0001-41.pdf>

⁶⁰ Andrew N. Rowan and Beth Rosen, *Progress in Legislation: Measurement and Assessment in: The State of the Animals III*, Deborah J. Salem (Editor), Andrew N. Rowan (Editor), Humane Society Press, 2005.

⁶¹ Tadlock Cowan, *Humane Treatment of Farm Animals: Overview and Issues*, Congressional Research Service, May 9, 2011 available at: <http://nationalaglawcenter.org/wp-content/uploads/assets/crs/RS21978.pdf>

⁶² <https://www.forbes.com/sites/nancyhuehnergath/2016/05/05/big-ag-bullies-and-lobbies-to-keep-americans-in-the-dark/#1d79f376502c>

⁶³ <https://www.govtrack.us/congress/bills/109/s3880/text>

⁶⁴ http://www.nytimes.com/2013/04/07/us/taping-of-farm-cruelty-is-becoming-the-crime.html?pagewanted=all&_r=1

⁶⁵ <https://aldf.org/article/texas-urge-texas-house-of-representatives-to-oppose-ag-gag-bill/>

⁶⁶ Keith Kenny, *McDonald’s: Progressing Global Standards in Animal Welfare*, in *Animals, Ethics and Trade* edited by Jacky Turner and Joyce D’Silva, Earthscan, 2006

⁶⁷ <http://www.uepcertified.com/pdf/2010-uep-animal-welfare-guidelines.pdf>

⁶⁸ <https://www.smithfieldfoods.com/sustainability/report/2018/animal-care>

⁶⁹ <http://certifiedhumane.org>

⁷⁰ <http://www.humaneheartland.org>

⁷¹ <http://animalwelfareapproved.org>

⁷² <http://www.globalanimalpartnership.org>

Enforcement mechanisms

Inspectors at APHIS monitor and enforce the Animal Welfare Act. FSIS manages meat product inspections.⁷³ The USDA previously published a quarterly humane handling report: No report is available beyond 2013.⁷⁴

There are enforcement mechanisms in states that have introduced restrictions on the use of extreme confinement rearing systems, and states manage and issue their own violations.

Key recommendations

- There is limited federal legislation applicable to farmed animals, poultry, and fish. World Animal Protection urges the federal government to introduce comprehensive legislation to protect all farmed animals during rearing, transport, and slaughter. The Humane Slaughter Act should be amended to cover the transport and slaughter of poultry and fish.
- We commend California for passing Proposition 12 – and urge the federal government to build on the state’s prohibition of the extreme confinement of laying hens, sows, and calves. The stocking density of broiler chickens should also be reduced to a maximum of 6lb/ ft² (30 kg/m²) or lower. Surgical operations, such as piglet mutilations and beak trimming for egg-laying hens, should be performed only under anesthesia and with analgesics.
- We also urge the US to repeal Big Ag rules currently implemented in seven states that criminalize whistleblowing and prevent the recording of farmed animal operations.
- World Animal Protection urges the federal government to require humane slaughter of all farmed animals. Animals should be instantaneously rendered unconscious and insensible to pain and distress before slaughter. No animal should be forced to witness other animals being slaughtered – which causes distress and fear.
- Last, we urge the federal government to ban long-distance transport of live animals (i.e., over eight hours) and replace it with a meat-only trade. Long-distance transport creates chronic stress for every animal. For some species and modes of transport, it may mean overpopulation, exhaustion, excess heat or cold, inadequate ventilation, and severely restricted access to food and water, leading to disease, pain, injury, or death.

Next Page: Hen hatching her eggs in a coop. Stock photo, Shutterstock©.

⁷³ https://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/haccp/haccp-based-inspection-models-project/himp-study-plans-resources/poultry-slaughter-inspection/!ut/p/a1/jZBfC4lwEMA_Sx9gbKZIPYoQZamEVLaXWHOpMd3YZICfvkU9RGR593Dc3e_-QgxziFtyqUtiatES_

⁷⁴ <https://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/regulatory-enforcement/humane-handling-quarterly-reports/humane-handling-quarterly-reports>



4. There are laws that apply to animals in captivity

Legislative Analysis

Ranking



Zoos

The AWA applies to zoos, regulating the keeping of mammals exhibited to the public. It also covers aquariums, circuses, and animal dealers. The AWA requires exhibitors and dealers of wild animals to be licensed through a USDA representative and to meet minimum standards of care and treatment, including adequate housing, handling, sanitation, nutrition, water, veterinary care, movement, and protection from extreme weather and temperatures. Facilities with marine mammals must test the water weekly, provide a minimum tank size dependent on the size and types of animals housed, and ensure animals are kept with a compatible animal of the same or similar species.

The 1973 Endangered Species Act (ESA) protects fish, mammals, birds, and plants listed as threatened or endangered.⁷⁵ The Animal Legal Defense Fund used the ESA, however, to successfully sue the Cricket Hollow Animal Park in Manchester, Iowa, over its mistreatment of captive animals in 2016. In 2018, the Eighth Circuit Court issued a unanimous decision upholding a district court's 2016 ruling that the roadside zoo violated the ESA by providing substandard care for four tigers and three lemurs who were subjects of the lawsuit.⁷⁶

State-level registration varies regarding protection for captive wild animals. Some states include zoo and circus animals under their anti-cruelty legislation, while others exclude them.

Private ownership of wild animals

Eighteen states ban private ownership of exotic animals (non-domesticated felines, wolves, bears, reptiles, and non-human primates).⁷⁷ Other states have partial bans, and 14 states require exotic animal owners to obtain a license or permit or to register the animal with state or local authorities before keeping them.

As of 2019, four states (North Carolina, Alabama, Nevada, Wisconsin) still lack legislation regarding private possession of wild animals; South Carolina was the last state to outlaw the practice when in 2017, it banned possession of big cats, non-native bears, and great apes.⁷⁸ New York State outlawed direct contact between the public and big cats in 2014.⁷⁹

Some groups and individuals, including World Animal Protection, have called for the enactment of the Big Cat Public Safety Act, proposed in the House in January 2019, which would create national regulations regarding private possession of wild animals as well as prohibit public contact with certain species.⁸⁰ As of 2019, USDA guidelines allow contact with big cats between eight to 12 weeks old; interaction with adults is prohibited.⁸¹

⁷⁵ <https://www.fws.gov/endangered/laws-policies/>

⁷⁶ <https://aldf.org/issue/roadside-zoos/>

⁷⁷ <https://www.bornfreeusa.org/campaigns/animals-in-captivity/summary-state-laws-exotic-animals/>

⁷⁸ https://www.scstatehouse.gov/sess122_2017-2018/bills/3531.htm

⁷⁹ <https://www.onegreenplanet.org/news/new-york-bans-selfies-with-captive-big-cats/>

⁸⁰ <https://bigcatrescue.org/big-cat-act/>

⁸¹ <https://www.onegreenplanet.org/animalsandnature/ban-contact-with-captive-big-cats/>



Above: Sammy the Serval in his new outdoor enclosure at Turpentine Creek Wildlife Refuge in Arkansas (October 2018).
Photo credit: World Animal Protection.

Fur farming

Animals farmed for fur in the US fall into a legislative loophole: They are considered neither wild animals nor domestic and do not benefit from the Animal Welfare Act nor the Humane Slaughter Act. They are also exempted from most state anti-cruelty laws.⁸² There is no national legislation regarding how such animals should be housed or treated; and most fur farms operate without licensing – off the radars of agriculture and wildlife agencies. The only federal legislation directly applicable to animals farmed for fur is the Truth in Fur Labeling Act of 2010 that requires products made with real fur to be labeled as such.⁸³

State initiatives show progress on welfare for animals farmed for fur. New York State banned anal and genital electrocution practices in 2008; several California cities have banned fur sales, including Los Angeles, which in 2019 became the largest city in the country to prohibit fur sales (ordinances still exempt fur obtained lawfully under state trapping licenses, however).⁸⁴ New York City Council proposed a local law to prohibit fur apparel sales in March 2019.⁸⁵ California will become the first state to ban fur product sales with a new law taking effect on January 1, 2023.⁸⁶

The lack of federal legislation over the treatment of animals exploited for fur makes it legal for the worst conditions to exist. One hundred million animals are killed for fur each year, with 85% coming from factory farms and the rest trapped in the wild.⁸⁷

⁸² <https://www.care2.com/causes/why-are-u-s-fur-farms-escaping-scrutiny.html>

⁸³ <https://www.govtrack.us/congress/bills/111/hr2480>

⁸⁴ <https://aldf.org/project/banning-the-sale-of-fur-in-new-york-city/>

⁸⁵ <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3903503&GUID=EBE55293-8737-4620-945A-308ADC3A23DC&Options=ID|Text|&Search=1476>

⁸⁶ <https://edition.cnn.com/2019/10/13/us/california-bans-fur-products-trnd/index.html>

⁸⁷ <https://www.humanesociety.org/all-our-fights/going-fur-free>

Analysis

The AWA does not cover wild animals kept as part of private collections or individual owners. The AWA's minimum requirements for other captive wild animals, however, are also insufficient to provide for their physiological and ethological needs and are out of step with modern animal welfare science.

The AWA does not account for species-specific needs identified by animal welfare science, such as environmental enhancements in animal housing to promote the psychological wellbeing of animals other than non-human primates. The AWA only requires that enclosures for mammals other than dogs, cats, rabbits, hamsters, guinea pigs, non-human primates, and marine mammals "shall be constructed and maintained to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement," advising that inadequate space may be indicated by malnutrition, poor condition, debility, stress, or abnormal behavior patterns.

According to the AWA, a bottlenose dolphin can be legally confined to a space measuring no more than 24 x 24 feet with a depth of 6 feet – even though dolphins may swim up to 40 miles a day in the wild. The phrase "normal postural and social adjustments" is also vague: For instance, it still allows tigers to be kept in cages just larger than their body length so that they can lie down and stand.

The AWA has also faced criticism around enforceability. Under the AWA, approximately 10,300 facilities have licenses; but the number of inspectors available to investigate conditions is inadequate.⁸⁸ Amendments to the AWA in 1985 required that animal facilities provide housing conditions that accounted for the psychological well-being of non-human primates, but did not establish the level for conditions to meet. The facilities were left to determine those arrangements, and inadequate arrangements led to numerous legal challenges from animal welfare groups.⁸⁹ Only in 1999 did APHIS create a policy to address the issue.⁹⁰

Wild animals in private collections or kept as pets have no federal protections and only limited state-by-state protection under anti-cruelty laws. In the case of roadside zoos, many have terrible conditions for animals – with unclean, tiny enclosures, little enrichment, inadequate diets, and little to no medical care.⁹¹ The current licensing system under the AWA makes it relatively easy for facilities such as these to stay licensed, even after they violate AWA regulations.⁹²

In 2012, a coalition of animal protection organizations filed a legal petition against the federal government to prohibit public contact with big cats, bears, and non-human primates.⁹³ The petition prompted the USDA to issue a response in 2016 that explicitly stated exhibitors violated AWA provisions if they allowed the public to handle or feed infant exotic cats.⁹⁴ The USDA's response, however, was only a guide – and not legally binding.

The Big Cat Public Safety Act is necessary, especially as human-wildlife conflicts continue to occur in facilities where wild animals are privately owned in non-accredited facilities. Since 1990, 24 people have been killed by captive big cats in the US, including an intern killed by a lion in North Carolina in January 2019.⁹⁵

⁸⁸ https://www.aphis.usda.gov/animal_welfare/downloads/List-of-Active-Licensees-and-Registrants.pdf

⁸⁹ David Favre, "Overview of the US Animal Welfare Act", Animal and Legal Historical Centre, 2002 available at: <https://www.animallaw.info/article/brief-summary-us-animal-welfare-act>

⁹⁰ <https://www.animallaw.info/article/overview-us-animal-welfare-act>

⁹¹ <https://aldf.org/issue/roadside-zoos/>

⁹² https://aldf.org/focus_area/captive-animals/

⁹³ <https://www.humanesociety.org/news/united-states-department-agriculture-cracks-down-abuse-tiger-cubs-roadside-menageries>

⁹⁴ https://www.aphis.usda.gov/publications/animal_welfare/2016/tech-neonatal-nondomestic-cats.pdf

⁹⁵ https://blog.humanesociety.org/2019/01/north-carolina-lion-attacks-woman-no-laws-private-ownership-dangerous-wild-animals.html?credit=blog_post_010319_id10314

⁹⁶ http://www.aphis.usda.gov/publications/animal_welfare/2012/animal_welfare_act_english.pdf

⁹⁷ Kali S. Grech, Detailed Discussion of the Laws Affecting Zoos, Michigan State University College of Law, 2004, available at: <http://www.animallaw.info/articles/dduszoos.htm>

Enforcement mechanisms

The USDA delegates responsibility for enforcing the AWA to its Animal and Plant Health Inspection Service (APHIS). APHIS has two divisions: Animal Care and Veterinary Services. Animal Care establishes humane care and treatment standards and monitors compliance through inspections, education, and partnerships. The Service issues licenses to commercial animal breeders, dealers, brokers, transportation companies, and exhibitors that demonstrate compliance with all standards and regulations. APHIS inspectors regularly make unannounced inspections for compliance and document deficiencies to issue warnings and a timeframe for facilities to improve conditions. Penalties for non-compliance include cease-and-desist orders, fines, and license suspensions or revocations.⁹⁶

The AWA also lacks provisions to enable concerned citizens to challenge conditions for captive animals, although animal protection organizations and individuals have tried to introduce them.⁹⁷ Since there is no federal legislation applicable to ensure the welfare standards for animals raised for fur, there are no enforcement mechanisms associated with this practice.

Key recommendations

- The AWA is limited regarding animal protections and welfare since it does not cover many animals commonly found in zoos, excludes entire species, and does not cover private collections of wild animals or privately-owned wild animals kept as pets. States have varying legislation regarding private ownership of wild animals. For animals covered by the AWA, there are only basic provisions and minimum enforceable standards regarding their care and treatment. World Animal Protection encourages the federal government to expand the scope of the AWA to include all wild animals kept in captivity, whether in zoos or privately owned.
- We also strongly encourage the federal government to adopt additional animal welfare regulations that address species-specific welfare needs for all species held in captivity.
- It is positive that all exhibitors and dealers of wild animals must be registered and licensed by the USDA. Such licenses are not species-specific, however, and not every species is regulated. USDA licenses are automatically renewed every year, regardless if a licensee repeatedly violates provisions of the AWA. World Animal Protection urges the federal government to end automatic license renewals and instead require all facilities, exhibitors, and dealers to re-apply for licenses annually, provided they meet the minimum threshold for animal welfare standards. We also encourage the USDA to make all records of zoo and captive facility inspections publicly available.
- World Animal Protection encourages a review of the exotic pet trade, including the welfare of wild animals kept as exotic pets in domestic environments and their supply chains. The review should also include whether certain species can be considered suitable as pets, based on clear criteria including animal welfare and other relevant concerns.
- We also encourage the federal government to adopt the Big Cat Public Safety Act, which prohibits the ownership of dangerous big cats and makes it illegal for exhibitors to allow public contact with cubs.
- Last, to build on recent state-level legislative changes restricting the sale of fur, we urge the federal government to enact a federal ban on fur farming for all animals.

5. There are laws that apply to companion animals

Legislative Analysis

Ranking

F

Care of companion animals

The AWA and its regulations apply to some issues concerning the commercial use of companion animals, but only regarding breeders, dealers, and exhibitors, not private individuals.

A USDA license is required for any business or organization that buys, sells (including adoptions), or negotiates the sale of dogs for research, exhibition, or use as pets; or for hunting, breeding, or security purposes. The AWA also restricts the import of dogs for purposes of resale, prohibits dog-fighting ventures, and provides protections to prevent pet dog thefts.

Exceptions for certain types of animal sellers

The act does not extend to small retail breeders and pet shops selling domestic animals to the public. When the buyer, seller, and dogs are physically in the same place, retail sales (including adoptions) do not require a USDA license. Similarly, a commercial breeder (retail or wholesale) with up to five breeding females can sell the offspring for pets of exhibitions.⁹⁸

In 2013, the AWA's scope was extended to include breeders selling pets online: Dog, cat, and rabbit breeders with more than four breeding females selling online, by phone, or by mail must have a USDA permit and agree to random inspections.⁹⁹ The AWA also requires government bodies, state or municipal pounds or shelters, private shelters, and federal research facilities to hold dogs or cats for not less than five days to enable owners to reclaim their lost pets or to allow shelters an opportunity to adopt out individual animals before selling a dog or cat to a dealer. Dealers are prohibited from selling a dog or cat within five business days after they acquire it.

The Dog and Cat Protection Act of 2000¹⁰⁰ makes it unlawful to import into, or export from, the US any dog or cat fur product, or to engage in interstate commerce in any dog or cat fur product.

In the wake of Hurricane Katrina, the Pets Evacuation and Transportation Standards Act of 2006¹⁰¹ authorized federal disaster assistance for the rescue, care, shelter, and needs of household pets and service animals. The Act also allows the Federal Emergency Management Service (FEMA) to develop plans that take into account the needs of individuals with pets and service animals, and to provide funding to state and local authorities for animal emergency preparedness purposes.

⁹⁸ https://www.aphis.usda.gov/animal_welfare/downloads/breeders/dogs/Dog-Breeder-Resource-Guide.pdf

⁹⁹ <http://www.usnews.com/news/articles/2013/09/10/usda-preempts-congress-enacts-online-pet-dealing-rules>

¹⁰⁰ http://wflendangeredstreamlive.org/Dog_Cat_Protection_Act.pdf

¹⁰¹ <https://www.govinfo.gov/content/pkg/BILLS-109hr3858enr/pdf/BILLS-109hr3858enr.pdf>



Above: Dog and cat. Stock photo, Shutterstock®.

Private individuals

No federal law covers how owners or other individuals treat their pets. States enact most companion animal protection laws, but anti-cruelty legislation varies state to state regarding retail breeders, pet stores, and trading. More than half of states have laws that include pets in domestic violence protective orders.¹⁰²

California passed Assembly Bill 425 in 2017,¹⁰³ which prohibits retail establishments such as pet stores from selling cats, dogs, and rabbits coming from commercial breeders. Such animals can be sold only if sourced from shelters and rescue groups. Maryland passed a similar pet sale ban in 2018.¹⁰⁴ Hundreds of cities have local legislation that prohibits pet stores from sourcing their animals from commercial breeders as well. In states without anti-tethering laws, cities and counties often pass their own such laws. Finally, many cities have banned declawing cats, with New York becoming the first state to ban this practice.¹⁰⁵

Stray animals

No federal laws cover stray animal control or promote responsible pet ownership.

¹⁰² https://aldf.org/focus_area/companion-animals/

¹⁰³ https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB485

¹⁰⁴ <https://nhes.org/maryland-passes-anti-puppy-mill-bill/>

¹⁰⁵ <https://www.nytimes.com/2019/07/22/nyregion/new-york-declaw-ban.html>

Analysis

The narrow scope of the AWA and exclusion of the majority of those who have companion animals, such as ordinary pet owners, represent a structural barrier to improving animal welfare.

There were an estimated 89.7 million dogs and 94.2 million cats kept as companion animals in 2017-2018 in the US, but there is no federal legislation regarding their care.¹⁰⁶ Many states have anti-cruelty laws that enact higher penalties for cruelty and neglect of companion animals.

There is also no federal law promoting responsible pet ownership: The lack of it means approximately 6.5 million companion animals enter animal shelters nationwide every year, and 1.5 million of them are euthanized.¹⁰⁷

Minimal standards in the AWA allow for puppy mills (usually referring to large-scale commercial dog breeding operations) where profit takes priority over the well-being of the dogs.¹⁰⁸ State definitions of puppy mills vary because the AWA does not limit the number of dogs on the premises and does not require a certain number of staff to be available to care for the dogs. Breeding females at the first heat cycle and every heat cycle is permissible, and unwanted animals may be killed or auctioned off. The Animal Welfare Act leaves significant discretion in the hands of puppy mill owners to decide what constitutes an adequate level of care for the dogs with respect to their living environment, cleanliness and sanitation, feeding, veterinary care, housing structure, and comfort.

It is estimated there are more than 10,000 puppy mills – a number much higher than that for registered dealers (3,000).¹⁰⁹ The Humane Society of the United States estimates that 2.4 million puppies sold annually originate from puppy mills.¹¹⁰ The USDA does not have enough inspectors to investigate thousands of facilities, which include research facilities and animal transporters as well as commercial breeding facilities: Even then, inspections are infrequent and may only happen once every few years.

Since the 2010 audit of USDA inspections that highlighted the lack of enforcement of the AWA, no further audits of the Animal Care unit's work in inspecting commercial breeding facilities seem to be available.¹¹¹ It signals an unwillingness to invest time and effort into ensuring the protection of companion animals.

In 2013, the USDA estimated between 8,400 to 15,000 dog breeders marketed puppies online.¹¹² A 2013 administrative change brought between 2,600 and 4,640 of these breeders with five or more breeding females under AWA regulations, along with about 75 rabbit breeders and 325 cat dealers.¹¹³ Breeders with fewer than five breeding females continue to be exempt, as well as operators producing dogs for hunting and security purposes or breeding. Operators with fewer than five breeding females and who breed non-pet animals may be covered in some states by anti-cruelty provisions or by specific related state legislation. In March 2019, the USDA Animal Care unit published the Dog Breeder Resource Guide, which illustrates some willingness to educate dog breeders about the legislation and improve the protection of companion animals.¹¹⁴

Homeless animals have no federal rules mandating their humane treatment.

Enforcement mechanisms

Under the AWA, criminal sanctions against breeders include costs up to \$10,000 per infraction, a possible prison sentence up to one year, and a fine of up to \$2,500.

The Dog and Cat Protection Act of 2000 includes penalties for violations up to at least \$3,000 per count of neglect. Since there is no legislation regarding homeless animals, there are no enforcement mechanisms associated with them.

Key recommendations

- The AWA only partially protects companion animals. It does not apply to private pet owners or small retail breeders. Minimal care standards prescribed by the AWA are too general and allow puppy mills to operate with little oversight. World Animal Protection, therefore, urges the federal government to extend the scope of the AWA to include all pet owners and retail breeders. All breeders and animal owners should have a duty of care that fulfills the animals' Five Freedoms.
- To prevent the spread of puppy mills, we encourage a federal ban on the third-party sale of puppies and kittens under eight weeks.
- We urge the federal government to allocate more human and financial resources to the APHIS Animal Care unit to increase the unit's ability to ensure dog breeders, dealers, and exhibitors abide by the AWA. Audits of these inspections should be regular, and results should be made available to the public as was done in 2010.
- We also encourage the federal government to promote humane dog population management, which relies on promoting responsible ownership, mass dog vaccinations, and reproduction control programs. Culling is unnecessary, cruel, and is proven to be ineffective.
- World Animal Protection urges the federal government to engage with the International Companion Animal Management (ICAM) coalition to learn about and implement their dog population management methodology. ICAM's methodology consists of a full cycle of action, addressing the root causes of conflict between roaming dogs and communities. The document can help governments in managing dogs humanely, and communities to live in harmony with dogs.
- Last, we encourage the federal government to promote responsible pet ownership, including promoting adoption over buying a companion animal.

¹⁰⁶ <https://www.statista.com/statistics/198095/pets-in-the-united-states-by-type-in-2008/>

¹⁰⁷ <https://www.aspc.org/animal-homelessness/shelter-intake-and-surrender/pet-statistics>

¹⁰⁸ <https://definitions.uslegal.com/p/puppy-mill/>

¹⁰⁹ <https://www.humanesociety.org/all-our-fights/stopping-puppy-mills>

¹¹⁰ <https://www.humanesociety.org/sites/default/files/docs/Puppy%20Mills%20Facts%20and%20Figures%20January%202019.pdf>

¹¹¹ <http://www.usda.gov/oig/webdocs/33002-4-SF.pdf>

¹¹² <https://www.federalregister.gov/articles/2013/09/18/2013-22616/animal-welfare-retail-pet-stores-and-licensing-exemptions>

¹¹³ <https://www.federalregister.gov/articles/2013/09/18/2013-22616/animal-welfare-retail-pet-stores-and-licensing-exemptions>

¹¹⁴ https://www.aphis.usda.gov/animal_welfare/downloads/breeders/dogs/Dog-Breeder-Resource-Guide.pdf

6. There are laws that apply to animals used for work or recreational purposes

Legislative Analysis

Ranking



Animals used for entertainment

The AWA applies to animals used for entertainment purposes, since the AWA defines exhibitors as “any person (public or private) exhibiting any animals, which were purchased in commerce or the intended distribution of which affects commerce, or will affect commerce, to the public for compensation, as determined by the Secretary, and such term includes carnivals, circuses, and zoos.”

The AWA prohibits staged dogfights, bear or raccoon baiting, cockfighting, and similar activities. Since 2008 it has been a federal felony punishable by imprisonment for up to five years and a fine of \$250,000 to sponsor, exhibit, buy, sell, deliver, possess, train, or transport an animal for fighting.¹¹⁵

The Animal Fighting Spectator Prohibition Act of 2013 also makes it a felony to knowingly bring a child under the age of 16 to an animal fight, and a misdemeanor to knowingly attend an animal fight. Also, all 50 states have introduced penalties for dog and cockfighting.¹¹⁶

The Animal Crush Video Prohibition Act of 2010 banned the creation, sale, and distribution of obscene animal torture videos that show the intentional crushing, burning, drowning, suffocating, and impaling of puppies, kittens, and other live animals for entertainment.

Some cities have also banned rodeos; several other cities and states have effectively banned or reduced rodeo activity by prohibiting the use of some cruel methods commonly used in rodeos.¹¹⁷

Marine mammals kept in captivity: South Carolina has banned keeping cetaceans in captivity since 1992. Since the API was first published, California passed Bill SB 839 (effective 2017) prohibiting corporations and individuals from breeding orcas in captivity. This law particularly affected the marine park SeaWorld, which initially opposed the bill but withdrew its active opposition in 2016.¹¹⁸

Bills similar to California’s were introduced in New York and Washington. As of 2019, California remains the only state to pass this legislation, though Florida also introduced its Orca Protection Act in 2018, which did not pass.

Federally, the Orca Responsibility and Care Advancement (ORCA) Act was introduced in 2015, co-sponsored by Representatives Adam Schiff (D-CA) and Jared Huffman (D-CA),¹¹⁹ but did not pass.

Animals used in circuses: The Traveling Exotic Animal and Public Safety Protection Act¹²⁰ was introduced in the House in May 2019.¹²¹ The proposal would amend the AWA to prohibit traveling circuses from holding exotic animals such as lions, tigers, and elephants. As of the end of 2019, a vote on the bill is still pending.

Local municipalities regulate the use of animals for circuses. As of January 2018, 79 municipalities in 35 states have partial or full restrictions on animals used in circuses and traveling shows.¹²² Restrictions include public contact with wild or exotic animals, use of bullhooks and methods that cause pain, and use of certain or all performing wild and exotic species. Ten states ban public contact with wild/exotic animals, though some bans exempt certain species: Delaware, Maine, Massachusetts, Mississippi, Pennsylvania, and Tennessee allow public contact with elephants. Hawaii and New Jersey ban all performances with wild animals.

In May 2019, the California State Senate unanimously passed Senate Bill 313, which includes a ban on the use of all wild animals in circuses, other than domestic dogs, domestic cats, or domesticated horses.¹²³ The bill explicitly excludes rodeos. Governor Gavin Newsome signed the bill into law in October.

Working animals

There is limited federal protection for working (or draft) animals, applicable to exhibition horses and horses and mules. The Horse Protection Act of 1970¹²⁴ makes it a crime to exhibit or transport for exhibition any “sored” horse, whose feet have been injured to alter the horse’s gait.

The Disposition of Unfit Horses and Mules Act of 2002¹²⁵ regulates horses and mules owned by the federal government; it allows those that become unfit for service to be destroyed or put out to pasture, either on pasture belonging to the federal government or adopted by reputable humane organizations. The Federal Law Enforcement Animal Protection Act of 2000 makes it an offense to “willfully and maliciously” harm a dog or a horse used by a federal agency in law enforcement.

¹¹⁵ <https://www.aspc.org/animal-cruelty/other-animal-issues/cockfighting>

¹¹⁶ <https://www.congress.gov/bill/111th-congress/house-bill/5566>

¹¹⁷ <https://www.sharkonline.org/index.php/animal-cruelty/rodeo-cruelty/755-locations-with-prohibitions-or-restrictions-on-rodeos-or-rodeo-events>

¹¹⁸ https://d31j74p4lpxrpf.cloudfront.net/sites/default/files/ca_-_en_files/cammic_5th_edition_2019_final_lo_rez_-_canada.pdf

¹¹⁹ <https://www.govtrack.us/congress/bills/114/hr4019>

¹²⁰ <https://www.congress.gov/bill/116th-congress/house-bill/2863?q=%7B%22search%22%3A%5B%22traveling+exotic+animal+and+public+safety+protection+act%22%5D%7D&s=2&r=1>

¹²¹ <https://grijalva.house.gov/press-releases/rep-grijalva-and-schweikert-introduce-the-traveling-exotic-animal-and-public-safety-protection-act/>

¹²² http://www.pawsweb.org/documents/PAWS_bans_exotic_animals_1_17_2018.pdf

¹²³ <https://www.sacbee.com/news/politics-government/capitol-alert/article230632279.html>

¹²⁴ https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/hpa/ct_hpa_reg_sections

¹²⁵ <https://corpuslegalis.com/us/code/title40/disposition-of-unfit-horses-and-mules>

Analysis

Animals used for work or recreational purposes depend on state anti-cruelty or state-specific laws for protection. For working animals, legislation is limited, since it only applies to horses and mules. There is no provision in the Disposition of Unfit Horses and Mules Act specifying humane treatment for the destruction of animals deemed “unfit.”

Although the Horse Protection Act was introduced in 1970, a 2010 audit by the United States Department of Agriculture’s Inspector General found that 40 years later, some trainers evaded the law rather than adopt humane training methods – especially since the law allows the industry to police itself.¹²⁶ The Inspector General recommended stricter penalties, an end to self-policing, and increased funding for USDA enforcement. APHIS provides online reports from the inspections of facilities.¹²⁷ In 2018, out of the 68 events inspected, USDA veterinary medical officers reported 31 cases of either horses being sores or other cases of noncompliance with the Horse Protection Act.¹²⁸

It is positive that the AWA applies to all animals used for entertainment, even though it does not apply to all species. The provisions of the AWA, however, provide only minimal standards. Notably, the AWA prohibits subjecting animals to “trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort.” These are not defined further under the AWA, especially the critical formulation of “unnecessary discomfort.”

Animal fighting is also prohibited federally. The federal government is active in trying to outlaw animal fighting and partners with animal protection organizations in its efforts. In 2013, the Humane Society of the United States (HSUS) and the American Society for the Prevention of Cruelty to Animals (ASPCA) were requested by the United States Attorney’s Office and the Federal Bureau of Investigation in seizing 367 dogs in coordinated raids across Alabama, Mississippi, and Georgia.¹²⁹ Through this work, eight defendants received sentences ranging from six months to eight years, which is one of the longest prison terms ever handed down in a federal dogfighting case. In 2015, Alabama ordered the dogfighters to pay nearly \$2 million to animal welfare groups.¹³⁰ Still, dogfighting continues as an underground activity. After declining in the 1990s, dog fighting has rebounded thanks to online sites that make it easier for dogfighters to exchange information.¹³¹

Despite these positives, the AWA still exempts several establishments and organized events involving animals from its provisions, including state and county fairs, rodeos, livestock shows, purebred cat and dog shows, and fairs or exhibitions that advance agricultural sciences or the arts.

It is also encouraging that some politicians support banning the breeding of cetaceans in captivity, supporting progress to make the current generation of marine mammals in captivity, the last. Industry groups such as SeaWorld, however, exert the financial influence that makes the passage of prohibition legislation difficult: For example, in Florida, SeaWorld and the Florida Attractions Association likely prevented a bill similar to California’s from being scheduled for a hearing and vote in the House of Natural Resources and Public Lands Subcommittee.¹³²

The circus industry’s change demonstrates that sustained demand from the public and animal welfare organizations can counteract economic and industry pressures to keep exploiting animals for entertainment. Since the API was first published, Ringling Bros. and Barnum & Bailey Circuses closed in 2017.¹³³ California’s Circus Cruelty Prevention Act is commendable for outlawing the use of all wild animals in circuses, but loopholes in the law limit its scope.

Enforcement mechanisms

Enforcement mechanisms exist under the Animal Welfare Act, the Horse Protection Act, and the other federal statutes relevant to this category of animals, along with state legislation on animal fighting and rodeos.

The Animal Fighting Spectator Prohibition Act of 2013 makes it a felony to bring a child under the age of 16 to animal fights and a misdemeanor to attend, with punishments up to three years in prison and a \$250,000 fine, and up to one year in prison and a \$100,000 fine respectively. Under the Animal Crush Video Prohibition Act, violations can result in up to seven years in prison.

For marine mammals kept in captivity, California prohibits corporations and individuals from breeding orcas in captivity. Those breaching the law can be fined up to \$100,000.

Key recommendations

- The AWA covers the use of animals for entertainment purposes. Positively, the AWA forbids animal fights; and every state also bans dog and cockfighting. The AWA is limited since it does not cover birds or cold-blooded animals. For animals covered by the AWA, they receive only basic provisions and minimum enforceable standards for care and treatment. World Animal Protection encourages the federal government to expand the scope of the AWA to all wild animals kept in captivity for entertainment purposes. We also strongly encourage the federal government to enact additional animal welfare regulations addressing specific welfare needs for all species held in captivity.
- Local and municipal laws differ greatly by the state regarding the use of animals for entertainment, notably for circuses and rodeos. We urge the federal government to build upon its ban on animal fights to include organization and attendance at events that cause animal suffering. Such prohibitions should cover circuses, rodeos, animal fights, animal races, wild animal rides, and all other forms of entertainment. We strongly encourage the government to ban the use of all animals in circuses.
- To expand upon California’s bill prohibiting the breeding of orcas in captivity, World Animal Protection urges Congress to reintroduce and pass the Orca Responsibility and Care Advancement (ORCA) Act, which will ban the keeping, display, and breeding of orcas in captivity. As the physiological and behavioral needs of marine mammals cannot be met in captivity, we encourage a ban on the breeding, keeping, and training of all marine mammals – not just orcas – to make the current generation the last one in captivity in the US. These animals should be retired to large seaside sanctuaries that allow them an increased range of natural behaviors.
- We strongly encourage the federal government to adopt specific legislation to address the welfare of working animals, including working equids, following the requirements of the World Organization for Animal Health’s (OIE) animal welfare standards. Working animals must be treated with consideration and given adequate shelter, exercise, care, food, and water appropriate to their needs. Any condition that impairs their welfare should be treated promptly: Affected animals must not be worked again until they are fit. They must not be overworked or overloaded, nor must they be forced to work through maltreatment.

¹²⁶ US Department of Agriculture, Office of Inspector General. (September 2010). Animal and Plant Health Inspection Service Administration of the Horse Protection Program and the Slaughter Horse Transport Program (Audit Report 33601-2-KC). Washington, D., available at: <http://www.usda.gov/oig/webdocs/33601-02-KC.pdf>

¹²⁷ <https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/hpa/activity-and-show-reports>

¹²⁸ https://www.aphis.usda.gov/animal_welfare/downloads/hp/FY2018-Horse-Program-Activity-Report.pdf

¹²⁹ http://www.humanesociety.org/news/press_releases/2013/08/alabama-georgia-mississippi-dogfighting-082613.html

¹³⁰ <https://www.humanesociety.org/news/multi-state-dogfighting-raid-saves-367-dogs>

¹³¹ <https://www.aspc.org/animal-cruelty/dogfighting/closer-look-dogfighting>

¹³² <https://uk.whales.org/2018/02/01/florida-orca-protection-act-stalls-in-florida-legislature/>

¹³³ <https://edition.cnn.com/2017/01/17/opinions/circus-isnt-dead-davis-opinion/index.html>

7. There are laws that apply to animals used for scientific research

Legislative Analysis

Ranking



The Animal Welfare Act and the Health Research Extension Act of 1985 apply to using animals in scientific research.¹³⁴

The AWA excludes rats and mice bred for use in research. The act sets minimum standards for housing and transportation, requires all research facilities to register with the USDA for a license, and to have an attending veterinarian. Facilities are required to file annual reports, list species, and numbers of animals used in research; provide the number of animals that experienced pain and distress, and justify their research methodology. APHIS ensures facilities comply with the AWA. Although the AWA includes provisions for environmental enrichment for non-human primates and exercise requirements for dogs, facilities do not need to provide these if justification relating to the research being conducted is given at the beginning of the research process.

Animal welfare regulations within the AWA require each institution to establish an Institutional Animal Care and Use Committee (IACUC) to review and approve all uses of animals in research. IACUC is required to investigate complaints and report any noncompliance. Each IACUC must include a minimum of three people – an experienced scientist, a veterinarian, and an individual not affiliated with the institution.

The Health Research Extension Act applies to all vertebrate animals used in research funded by the National Institutes of Health (NIH). Unlike the AWA, the protections of the Health Research Extension Act include rats and mice. The extension act calls for the proper care and treatment of animals and the organization of animal care and use committees with a minimum of five members, including the attending veterinarian, a scientist, a non-scientist, and a member not affiliated with the institution. To receive NIH funding, institutions must attest that they comply with the Public Health Service Policy on Humane Care and Use of Laboratory Animals.¹³⁵

The use of animals in research is also guided by policies of various federal agencies involved in research, such as the US Food and Drug Administration (FDA). Under the Public Health Service Policy, the National Academy of Sciences produces a “Guide for the Care and Use of Laboratory Animals” with advice and latest scientific research on how to care for various species of animals that complies with the Public Health Service Policy.¹³⁶ The “Three Rs” principles are outlined in the guide as well. Research facilities applying for NIH funding must file an assurance with the Office of Laboratory Animal Welfare of the National Institutes of Health that they will comply with the guide: Non-compliance may lead to disqualification of the facility from federal funding as well as funds being withdrawn.

In 2000, the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) was formally established by the ICCVAM Authorization Act.¹³⁷ Its purpose is “to establish, wherever feasible, guidelines, recommendations, and regulations that promote the regulatory acceptance of new or revised scientifically valid toxicological tests that protect human and animal health and the environment while reducing, refining, or replacing animal tests and ensuring human safety and product effectiveness.”¹³⁸ The Coordinating Committee comprises representatives from 16 federal regulatory and research agencies involved with toxicological and safety testing and collaborates internationally on the development of alternatives to animals as a member of International Cooperation on Alternative Test Methods.¹³⁹

Recently, the federal government introduced a sanctuary system to provide for the lifetime care of chimpanzees previously used in research or bred or purchased for use in research conducted or supported by the NIH, FDA, or other federal agencies.¹⁴⁰ This followed a 2011 report by the National Academies Institute of Medicine (NIAM) that found that the use of chimpanzees in biomedical research is largely unnecessary.¹⁴¹

As of late 2019, nine states have passed the “Beagle Freedom Bill,” which requires all adoptable animals used in experiments, such as dogs and cats, to be given a chance for a home instead of being euthanized after the experiment ends. Minnesota became the first state to pass such legislation in 2014, followed by California, Connecticut, Delaware, Illinois, Maryland, Nevada, New York, and Rhode Island. In 2019, similar bills were proposed in Massachusetts, Oregon, Texas, Virginia, and Washington.

In May 2019, Representatives Brendan Boyle (D-PA) and Jackie Walorski (R-IN) introduced the bipartisan Animal Freedom from Testing, Experimentation and Research (AFTER) Act,¹⁴² which would require all federal agencies to establish a policy outlining how and where to retire animals used in testing by federal agencies.¹⁴³ The bill covers animals already protected by the AWA, such as monkeys, dogs, cats, rabbits, and guinea pigs.

Cosmetics and animal testing

The federal Humane Cosmetics Act was introduced in 2014, which would have phased out cosmetic animal testing and the sale of cosmetics tested on animals, but did not pass.¹⁴⁴ California passed the California Cruelty-Free Cosmetics Act of 2018,¹⁴⁵ largely prohibiting the sale of cosmetic products and ingredients tested on animals. The California bill will take effect on January 1, 2020. Animal-tested products may still be sold in the state, as long as testing did not occur after that date.

¹³⁴ <https://olaw.nih.gov/policies-laws/hrea-1985.htm>

¹³⁵ <http://grants.nih.gov/grants/olaw/references/phspol.htm>

¹³⁶ <http://grants.nih.gov/grants/olaw/Guide-for-the-care-and-use-of-laboratory-animals.pdf>

¹³⁷ <https://www.congress.gov/106/plaws/publ545/PLAW-106publ545.pdf>

¹³⁸ <https://ntp.niehs.nih.gov/pubhealth/evalatm/iccvam/index.html>

¹³⁹ <https://ntp.niehs.nih.gov/pubhealth/evalatm/iccvam/international-partnerships/icatm/index.html>

¹⁴⁰ <http://www.animallaw.info/statutes/stusfd42usca283m.htm>

¹⁴¹ <http://www8.nationalacademies.org/onpinews/newsitem.aspx?RecordID=13257>

¹⁴² <https://www.congress.gov/bills/116/congress/house-bill/2897/text?q=%7B%22search%22%3A%5B%22AFTER+Act%22%5D%7D&r=1&s=1>

¹⁴³ <https://boyle.house.gov/media-center/press-releases/boyle-walorski-introduce-bill-retire-animals-government-labs>

¹⁴⁴ <https://www.govtrack.us/congress/bills/113/hr4148>

¹⁴⁵ https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1249

Analysis

The AWA requires all facilities using animals for scientific research to be licensed and registered. Still, the AWA is limited since rats and mice are excluded from its scope, though these animals make up 95% of animals used this way.

The requirement under the AWA and the Health Research Extension Act for the establishment of Institutional Animal Care and Use Committees (IACUC) could potentially influence animal welfare and encourage scientists to reduce, replace, and refine (the “Three Rs”) the number of animals used in research: but these principles do not appear in the legislation.

Because the AWA excludes rats and mice specifically bred for research from its scope, there is no number available on how many animals of these species are used. Over 800,000 other types of animals have been used in research, according to a 2016 report.¹⁴⁶

The federal government’s commitment to advancing the use of alternatives to animals in research is demonstrated internationally, with representatives promoting alternatives to animal use at key forums. These activities may be attributed to the US National Academy of Sciences’ landmark 2007 report, “Toxicity Testing in the 21st Century: A Vision and a Strategy.”¹⁴⁷ The report established the scientific case for a non-animal approach to safety testing based on a robust understanding of human biological pathways which, when interrupted, lead to various types of toxicity and disease. The report’s analysis and recommendations were based not on ethical or policy drivers such as the “Three Rs” but published literature documenting the limitations of animal-based safety tests.

Following the report’s publication, the government sponsored a collaboration called Tox21 between the Environmental Protection Agency (EPA), the FDA, and the National Institute for Environmental Sciences (NIES). Tox21 aims to act as a catalyst for global, coordinated implementation of pathway-based toxicology,¹⁴⁸ backed by considerable funding from the US to develop alternatives to the use of animals in research. In 2009 the EPA provided approximately \$15 million for the collaboration.¹⁴⁹ With the creation of the ICCVAM and with representatives from 16 federal regulatory and research agencies, the government appears to support reducing the use of animals in research.

The AFTER Act is also a positive development for animal welfare, encouraging the adoption of animals no longer used for research. The Act could be improved by covering animals not currently protected under the AWA, such as rats and mice.

Still, the federal government has not banned the testing of cosmetics on animals, despite an international trend towards doing so. Animal testing for cosmetics is being phased out in over 30 countries, including Norway, Switzerland, India, and European Union countries. California represents a progressive example for other states to follow, but even the California law presents several loopholes: The California Cruelty-Free Cosmetics Act does not prevent companies from funding animal testing for products and ingredients sold in countries where such testing measures are required by law.

Animal testing may also still take place if two conditions apply: Non-animal alternative methods of testing do not exist, and the need to conduct animal tests is justified and supported by a detailed research protocol proposed as the basis for evaluation. The FDA, which regulates cosmetics safety but does not have the mandate to approve new products, does not require animal testing; but asks manufacturers to “employ whatever testing is appropriate and effective” to ensure safety.¹⁵⁰ Therefore, there are still circumstances under which animal testing occurs in California.

¹⁴⁶ <https://animal-testing.procon.org/number-of-animals-used-for-testing-by-species/>

¹⁴⁷ <http://dels.nas.edu/Materials/Report-In-Brief/4640-Toxicity-Testing>

¹⁴⁸ <http://epa.gov/ncct/Tox21/>

¹⁴⁹ http://www.epa.gov/ncct/download_files/basic_information/CTRP2_Implementation_Plan_FY09_12.pdf

¹⁵⁰ <https://www.fda.gov/cosmetics/product-testing-cosmetics/animal-testing-cosmetics>

Next page: Domestic gray rabbits in the grass. Stock photo, Shutterstock®.





Above: A rescued monk seal in Kona, Hawaii. Credit: World Animal Protection / Rachel Ceretto.

Enforcement mechanisms

APHIS implements the AWA and conducts yearly inspections. The IACUC conducts inspections only for laboratory animals and must inspect facilities every six months.¹⁵¹

The Public Health Service Policy on Humane Care and Use of Laboratory Animals incorporates the “Three Rs” principles, and the concept is outlined in the “Guide for the Care and Use of Laboratory Animals.” However, the guide’s provisions are not legally binding.

The Office of Laboratory Animal Welfare oversees all NIH-funded research related to the Health Research Extension Act. The Office may conduct unannounced visits to facilities to ensure compliance with its regulations, but the system is largely based on self-reporting via the animal care and use committees. However, the self-policing of compliance with the Public Health Service Policy is a potential barrier to the reduction, replacement, and refinement of the use of animals in research.

At the state level, violations of the Cruelty-Free Cosmetics Act¹⁵² result in an initial fine of \$5,000 and an additional \$1,000 for each day the violation continues.

Key recommendations

- The applicability of the AWA is limited since the AWA only applies to warm-blooded animals and excludes rats of the genus *Rattus* and mice of the genus *Mus* who are bred for use in research. Therefore, the US Government is strongly encouraged to amend the AWA to include all animals used for research in its scope of application.
- World Animal Protection recommends the federal government amends the Health Extension Act to enshrine the “Three Rs” principles – Replacement, Reduction, and Refinement. Under refinement, the legislation should require that animals used in research be protected from unnecessary pain and suffering. Though these principles are laid out in the Guide for the Care and Use of Laboratory Animals, the guide’s recommendations are non-binding.
- The creation of the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) should be commended. ICCVAM is encouraged to engage with animal welfare organizations to promote alternatives to animal experiments. The US Government is also encouraged to continue allocating funding to the development of alternatives to animal use in research.
- It is positive for animal welfare that all institutions using animals for research must be licensed and regularly inspected by APHIS. The US Government is strongly encouraged to publish and distribute the reports from such inspections. Moreover, the US Government is strongly encouraged to increase the human and financial resources available to make such inspections thorough.
- World Animal Protection recommends the federal government pass the Animal Freedom from Testing, Experimentation and Research (AFTER) Act 2019, which would require that all federal agencies maintain a policy adopting out animals no longer needed for research. The scope of application of the AFTER Act should be expanded to include all animals used in research, including rats and mice.
- We urge the federal government to ban the testing of cosmetic products and their ingredients on animals. Building upon the California Cruelty-Free Cosmetics Act, we encourage the government to ban the import and sale of cosmetic products tested on animals and to support the reintroduction of the Humane Cosmetics Act.

¹⁵¹ https://research.unc.edu/files/2012/11/CCM3_024437.pdf

¹⁵² https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1249

8. There are laws that apply to wild animals

Legislative Analysis

Ranking



Several federal legislations apply to wild animals

The Bald and Golden Eagle Protection Act 1940 makes it illegal to take or possess bald eagles or golden eagles, their eggs or nests, without a permit issued by the Secretary of the Interior.¹⁵³

The Fur Seal Act of 1966 prohibits, except under specified conditions, the taking, including transportation, importing, or possession, of fur seals and sea otters. Exceptions are authorized for “Indians, Aleuts, and Eskimos” living on the North Pacific Ocean coasts, who are permitted to take fur seals and dispose of their skins. The seal act also authorizes the Secretary of Commerce to conduct scientific research on the fur seal resources in the North Pacific Ocean.¹⁵⁴

Some animal welfare aspects are addressed in the Wild and Free-Roaming Horses and Burros Act of 1971,¹⁵⁵ which protects wild horses living on federally owned public land from various forms of cruelty. The Bureau of Land Management manages its regulations.¹⁵⁶

The Airborne Hunting Act 1971¹⁵⁷ prohibits shooting or attempting to shoot or harassing any bird, fish, or other animals from aircraft except for certain specified reasons, including protection of wildlife, livestock, and human life under a permit or license provided at federal or state level.

The Marine Mammal Protection Act 1972¹⁵⁸ (MMPA) establishes a moratorium on the taking and importation of marine mammals, as well as products taken from them. The MMPA creates procedures for waiving the moratorium and transferring management responsibility to the states. There are exceptions for issuing permits for the capture and importation of marine mammals for “scientific research, public display, photography for education or commercial purposes, or enhancing the survival or recovery of a species or stock, or for importation of polar bear parts (other than internal organs) taken in sport hunts in Canada.” Traditional hunting by indigenous people is also exempted. The Department of the Interior and the Department of Commerce are responsible for enforcing the MMPA.

Endangered Species Act of 1973

The Endangered Species Act of 1973 (ESA)¹⁵⁹ protects and promotes the recovery of animals and plants in danger of extinction because of human activity. The ESA lists all species endangered or threatened throughout all or a significant portion of their range; and requires federal agencies, in consultation with the US Fish and Wildlife Service

or the National Oceanic and Atmospheric Administration (NOAA) Fisheries Service, to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of designated critical habitats of such species. The ESA also prohibits any action that causes “taking” of any listed species of endangered fish or wildlife. Finally, the import, export, interstate, and foreign commerce of listed species are all generally prohibited. The ESA implements the Convention on International Trade in Endangered Species (CITES), and the US Department of Interior manages the protection of listed species from hunting, killing, taking, and injuring.

Other notable legislation

The African Elephant Conservation Act 1988¹⁶⁰ establishes a special fund that assists African governments in elephant research and conservation. The Secretary of the Interior reviews existing elephant conservation programs in Africa and establishes criteria for declaring and removing moratoria on ivory imports from source countries and intermediary countries based upon the results of these reviews. The US prohibits raw ivory exports from African countries; however, sport-hunted African elephant trophy imports are allowed.

The Wild Bird Conservation Act 1992¹⁶¹ establishes a federal system to limit or prohibit imports of exotic bird species. The Act imposes a moratorium on the importation of certain exotic bird species identified by the Convention on International Trade in Endangered Species (CITES) and requires the secretary to publish a list of exotic bird species for which trade is allowed.

The Great Apes Conservation Act of 2000¹⁶² provides financial resources for the conservation programs of countries within the range of great apes.

The Lacey Act 2001¹⁶³ regulates the import of any species protected by international or domestic law and prevents the spread of invasive (non-native) species.

In 2014 President Obama introduced a ban on all elephant trophy imports into the US. The US Fish and Wildlife Service lifted part of the ban in November 2017 to allow imports from Zimbabwe or Zambia.¹⁶⁴ After President Trump tweeted that the ban would remain in effect, the US Fish and Wildlife Service issued a memo in March 2019 stating applications for trophy imports would be considered on a case-by-case basis.¹⁶⁵

¹⁵³ <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC143371>

¹⁵⁴ <http://extwprlegs1.fao.org/docs/pdf/usa143826.pdf>

¹⁵⁵ <https://www.animallaw.info/statute/us-horse-wild-horses-and-burros-act>

¹⁵⁶ <https://www.blm.gov/programs/wild-horse-and-burro>

¹⁵⁷ <http://extwprlegs1.fao.org/docs/pdf/usa143301.pdf>

¹⁵⁸ <https://legcounsel.house.gov/Comps/Marine%20Mammal%20Protection%20Act%20Of%201972.pdf>

¹⁵⁹ <http://extwprlegs1.fao.org/docs/pdf/usa142963.pdf>

¹⁶⁰ <http://extwprlegs1.fao.org/docs/pdf/usa143299.pdf>

¹⁶¹ <http://extwprlegs1.fao.org/docs/pdf/usa144314.pdf>

¹⁶² <https://www.animallaw.info/statute/us-apes-great-apes-conservation-act-2000>

¹⁶³ <http://extwprlegs1.fao.org/docs/pdf/usa153636.pdf>

¹⁶⁴ <https://www.forbes.com/sites/trevornace/2017/11/16/trump-to-reverse-ban-on-elephant-trophies-from-africa/#14ae77832e56>

¹⁶⁵ <https://www.forbes.com/sites/trevornace/2017/11/16/trump-to-reverse-ban-on-elephant-trophies-from-africa/#14ae77832e56>

The US also passed the Eliminate, Neutralize, and Disrupt (END) Wildlife Trafficking Act¹⁶⁶ in October 2016. This bipartisan legislation aimed to curb illegal wildlife trade through partnerships between the US and other countries fighting terrorist organizations and international crime syndicates that profit from wildlife trafficking. The END Wildlife Trafficking Act allows prosecutors to treat smuggling or selling endangered species as a predicate offense under money laundering statutes.

The Endangered Salmon Predation Prevention Act 2018¹⁶⁷ eases protection contained in the MMPA for California and Steller sea lions in the Columbia and Willamette rivers and their estuaries. It authorizes the National Oceanic and Atmospheric Administration (NOAA) to issue permits allowing Native American tribes to kill sea lions, on the grounds that the seals eat too much endangered salmon. However, this new law does not require state officials to identify sea lions by their markings or document the animals feeding on salmon. The new law also expands the area from which sea lions can be legally removed.

Hunting is mostly regulated by states. In most cases, an individual must have a hunting license issued by the state where the hunt occurs and comply with the state's fish and game department requirements. Hunting licenses can generally be purchased at any retail outlet that deals in hunting and fishing equipment, such as sporting goods stores.¹⁶⁸

Several states have introduced partial or full bans on "canned hunting" and shooting animals remotely via the internet, and have introduced measures on other welfare-negative activities, including prohibiting bear trapping.¹⁶⁹ A minority of states, however, continue to permit activities such as bear and cougar hunting with dogs and bear-baiting.

Since we published our first API, Alaska has repealed a law prohibiting hunters from using aggressive tactics such as shooting or trapping wolves while at their dens with cubs, spotting grizzly bears from aircraft, killing hibernating bears; trapping bears with wire snares; and luring bears with food.¹⁷⁰

Analysis

Federal legislation covering wildlife is aimed, for the most part, at conserving groups rather than individual animals. The Endangered Species Act (ESA) implements the provisions of CITES, and the US Department of the Interior is responsible for protecting listed species from hunting, killing, taking, and injuring. However, the ESA does not prevent individual ownership of endangered species and does not prevent the hunting of privately-owned endangered species in so-called "canned" or captive hunts in some states.¹⁷¹

Other than the Airborne Hunting Act, no federal legislation addresses the treatment of individual wild animals during hunting, trapping, and fishing. There is also no basic federal legislation to protect wild animals from acts of cruelty and abuse, and no federal legislation mandating humane hunting provisions.

Under the Wild and Free-Roaming Horses and Burros Act, the Bureau of Land Management (BLM), which implements its regulations, reportedly sent 1,794 protected horses to a Colorado rancher between 2009 and 2012 who sent them out for slaughter.¹⁷²

Some states offer a few protections for individual animals during hunting activities, but a wide range of cruel activities involving wildlife happen without legal prohibition, including hunting animals using dogs or bows and arrows, using steel-jawed leghold traps or other types; and canned hunting. The Animal Welfare Act does not apply to game preserves, hunting preserves, or captive hunts. The HSUS estimates there are more than a thousand captive hunting operations across the US – 500 of which take place in Texas alone.¹⁷³

For marine mammals, the Marine Mammal Protection Act (MMPA) is not effective at protecting their welfare, since it allows permit issues to capture wild animals for a variety of reasons, among which are public display and accidental captures by fishers. This last provision contributes to the deaths of millions of dolphins in the nets of the commercial fishing industry.¹⁷⁴

The US Fish and Wildlife Service also actively promotes hunting as a conservation tool, highlighting that "by respecting seasons and limits ... the wildlife populations are sustainable."¹⁷⁴ There is no education for hunters on what "sustainable" population levels are.

Although the Endangered Species Act (ESA) protects animals listed as endangered or threatened, US Fish and Wildlife issues permits for some of those listed to be killed on captive hunts. This creates a market for endangered species trophies and encourages illegal poaching in animals' native habitats. Issuing permits to shoot endangered species contradicts the basic purposes of the ESA – to conserve endangered and threatened wildlife, not kill them.

US Fish and Wildlife also lifted a ban on elephant trophies from Zimbabwe and Zambia in 2017, which President Trump renewed days later.¹⁷⁶ Although it is progressive that some states have banned or regulate canned hunting, the federal government still allows the practice.

¹⁶⁶ <https://www.congress.gov/bill/114th-congress/house-bill/2494?q=%7B%22search%22%3A%5B%22HR+280%22%5D%7D&s=1&r=49>

¹⁶⁷ <https://www.congress.gov/bill/115th-congress/senate-bill/3119>

¹⁶⁸ <https://www.fws.gov/hunting/state-license.html>

¹⁶⁹ https://www.humanesociety.org/sites/default/files/docs/State%20Law%20Index%202019%20MT-WY_0.pdf

¹⁷⁰ <https://www.congress.gov/bill/115th-congress/house-joint-resolution/69/text>

¹⁷¹ http://www.humanesociety.org/issues/captive_hunts/facts/captive_hunt_fact_sheet.html

¹⁷² <https://americanwildhorsecampaign.org/media/blm-illegally-sold-thousands-wild-horses-slaughter-report>

¹⁷³ <https://www.humanesociety.org/resources/captive-hunts-fact-sheet>

¹⁷⁴ <https://www.worldanimalprotection.us/our-work/animals-wild/marine-animals-captivity/us-dolphin-regulations>

¹⁷⁵ <https://www.fws.gov/hunting>

¹⁷⁶ <https://www.news.com.au/technology/science/animals/donald-trump-to-allow-hunters-like-his-sons-eric-and-donald-jr-to-import-elephant-trophies/news-story/bf892c2ea7f0ba0f317bcb8f93a14e97>

Another barrier is trophy hunters who are willing to pay huge amounts of money to obtain trophies from captive hunts, where the animal has no chance of escaping death.¹⁷⁷ The strength of the hunting, trapping and shooting lobby against restrictions is another hurdle. In 2017, the powerful hunting lobby group Safari Club International auctioned 280 South African animals for hunting to raise funds so it could lobby the Trump administration against further measures protecting threatened species.¹⁷⁸ The Trump administration has also repealed a number of wildlife protection laws created during the Obama administration – suggesting that such protections are no longer a priority.¹⁷⁹

The federal government has, however, pursued a tougher stance on wildlife trafficking. The Obama administration gave crucial backing to anti-poaching efforts, including the president signing an executive order establishing an interagency task force to coordinate US response across all sectors of wildlife counter-trafficking.^{180,181} The order also provided \$10 million in anti-poaching training and technical assistance to countries in sub-Saharan Africa. The Obama administration also issued a comprehensive National Strategy for Combatting Wildlife Trafficking in February 2014.¹⁸² One of President Trump’s first executive orders was to allow swift action against illicit transnational organizations and transboundary trafficking. Illegal smuggling in wildlife was included among the threats listed, along with drugs, arms, and human trafficking. In addition, President Trump’s 2018 National Security Strategy calls on military and security partnerships in Africa to counter the illegal trade in natural resources, which encompasses wildlife trafficking.¹⁸³



Left: Leopard running, Kenya. Photo: World Animal Protection

¹⁷⁷ <https://eu.usatoday.com/story/news/nation/2013/01/25/exotic-game-hunts-costs/1864667/>

¹⁷⁸ <http://ens-newswire.com/2017/02/01/u-s-hunters-auction-african-hunts-for-to-lobby-trump/>

¹⁷⁹ <https://www.independent.co.uk/news/world/americas/donald-trump-hibernating-bears-legal-repeal-obama-ban-hunting-alaska-ronald-young-environmental-a7673686.html>

¹⁸⁰ <https://obamawhitehouse.archives.gov/the-press-office/2013/07/01/executive-order-combating-wildlife-trafficking>

¹⁸¹ <https://obamawhitehouse.archives.gov/blog/2013/09/09/announcing-advisory-council-president-s-taskforce-wildlife-trafficking>

¹⁸² <https://obamawhitehouse.archives.gov/sites/default/files/docs/nationalstrategywildlifetrafficking.pdf>

¹⁸³ <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>



Above: Chok is a calm and gentle 29-year-old male elephant who has lived at Eco-tourism Koh Lanta for more than seven years. He was born into captivity and originally used in the harsh logging industry. Photo: World Animal Protection.

Enforcement mechanisms

The US has enforcement mechanisms regarding relevant legislation on the conservation of endangered species and protection of specified animals, and regulatory authorities are designated in each of the acts mentioned, along with penalties.

Key recommendations

- The US lacks federal legislation prohibiting cruelty acts towards wild animals. Hunting regulations also differ at state and regional levels. World Animal Protection encourages the federal government to improve alignment among state laws by banning any form of hunting that does not directly support subsistence. Subsistence hunting operations must employ the least cruel methods of hunting and slaughter, and all possible efforts should be made to shorten the suffering that animals experience when killed during such hunts. At the very least, we encourage the federal government to forbid the use of the cruelest hunting methods.
- We urge the federal government to amend the Endangered Species Act to prevent hunting in some states of privately-owned endangered species in canned or captive hunts.
- We also encourage the federal government to amend the Marine Mammal Protection Act and to repeal granting permits from the National Marine Fisheries Service for capturing marine mammals for public display and under “accidental captures.”

Goal 3: Presence of Effective Governance Structures and Systems

9. The government has assigned responsibility and accountability for improving animal protection at a high government level and has provided resources

Legislative Analysis

Ranking



The USDA has Congressional authority to promulgate legally binding regulations on animal welfare on a limited number of issues, as provided in the Animal Welfare Act.¹⁸⁴

Responsibility for managing the AWA's provisions and other related legislation rests with the USDA's APHIS subdivision.¹⁸⁵ The Animal Care unit of APHIS determines standards for the humane care and treatment of animals.¹⁸⁶ The Veterinary Services unit of APHIS concentrates in particular on issues concerning livestock. The Wildlife Services unit at APHIS manages issues involving wildlife that threaten human health or safety.¹⁸⁷ The USDA employs staff in every state and US territory to enforce federal legislation under supervision from APHIS; these employees are either veterinary medical officers or inspectors.

APHIS procedures and activities

In 2010, APHIS created a Center for Animal Welfare to provide guidance and best practices on animal welfare issues to stakeholders and industry partners. The Center works with a diverse network of partners and experts to serve as the national resource for policy development and analysis, education and outreach, and science and technology to support the AWA and the Horse Protection Act, and to provide guidance on the safety and well-being of animals during emergencies.¹⁸⁸

APHIS's 2010-2015 strategic plan included objectives in protecting and promoting animal welfare,¹⁸⁹ with strategies and resources meant to help achieve goals under the AWA and the Horse Protection Act: To train, conduct outreach, educate, manage other non-regulatory activities via the Center for Animal Welfare, assist local communities during natural disasters, and evaluate "new and existing technology to assess physical and environment conditions toward improving the well-being of animals"¹⁹⁰ APHIS ranks its animal protection objectives as part of a broader goal to support rural communities. APHIS also has objectives regarding the reduction of agricultural pests and wildlife as well.¹⁹¹

APHIS's 2015-2019 strategic plan includes targets toward improving the welfare of animals covered under the AWA.¹⁹² APHIS also manages provisions of the Commercial Transport of Equines to Slaughter Act 2001¹⁹³ to ensure the humane care and treatment of millions of animals.

¹⁸⁴ <http://www.whitehouse.gov/administration/cabinet>

¹⁸⁵ <https://www.aphis.usda.gov/aphis/home/>

¹⁸⁶ <https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/usda-animal-care-overview>

¹⁸⁷ https://www.aphis.usda.gov/aphis/ourfocus/wildlifedamage/SA_Program_Overview

¹⁸⁸ <https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/caw/caw-program-info>

¹⁸⁹ <https://www.emwh.org/issues/brucellosis/APHIS/APHIS%20Strategic%20Plan%202015.pdf>

¹⁹⁰ <https://www.emwh.org/issues/brucellosis/APHIS/APHIS%20Strategic%20Plan%202015.pdf>

¹⁹¹ <https://www.aphis.usda.gov/aphis/banner/aboutaphis>

¹⁹² <https://www.aphis.usda.gov/aphis/banner/aboutaphis>

¹⁹³ https://www.aphis.usda.gov/animal_health/animal_dis_spec/horses/downloads/cfr9_01-9.pdf

Some animal protection responsibilities sit within the scope of the US Department of Health and Human Services (HHS), home to the National Institutes of Health (NIH) and its Office of Laboratory Animal Welfare. The Secretary of HHS is a member of the president's cabinet.

Wild animal issues not covered by the AWA are the responsibility of the US Fish and Wildlife Service, housed under the US Department of the Interior.¹⁹⁴ The Secretary of the Department of the Interior is also a member of the president's cabinet.

Inspections under the Animal Welfare Act

The federal government provides resources for animal protection under its welfare act. APHIS Animal Care inspectors conduct routine, unannounced inspections of all entities licensed and registered under the AWA.

There are three types of inspections:

- Pre-licensing inspections, to make sure applicants meet federal standards prior to being licensed/registered;
- Routine, unannounced compliance inspections of all entities to make sure they are adhering to federal standards and regulations; and
- Focused inspections based on public complaints or allegations of unlicensed activities.

During routine inspections, the USDA reviews the premises, records, husbandry practices, veterinary care program, and animal handling procedures to ensure the animals are treated humanely. The frequency of inspections is based on several factors, including an entity's compliance history. The USDA inspects research facilities that use regulated animals at least once a year.¹⁹⁵

The criteria used by Animal Care personnel to inspect USDA-licensed and registered facilities are publicly available.¹⁹⁶ The inspection guides contain species-specific criteria to determine the welfare and health of cats, cougars, dogs, elephants, leopards, lions, tigers, and tiger cubs.

In February 2017, the USDA removed public access to thousands of reports documenting how many animals are kept by research laboratories, companies, zoos, circuses, and animal transporters and whether those animals are being treated humanely in accordance with the AWA.¹⁹⁷

¹⁹⁴ <http://www.fws.gov>

¹⁹⁵ https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/awa/ct_awa_inspections

¹⁹⁶ https://www.aphis.usda.gov/animal_welfare/downloads/Animal-Care-Inspection-Guide.pdf

¹⁹⁷ https://www.washingtonpost.com/news/animalia/wp/2017/02/03/the-usda-abruptly-removes-animal-welfare-information-from-its-website/?noredirect=on&utm_term=.52ac710d986c

The USDA did the same with Horse Protection Act inspection reports, justifying its decisions “based on our commitment to being transparent ... and maintaining the privacy rights of individuals.”¹⁹⁸

Following the USDA’s decision, 18 senators wrote to the acting deputy secretary, urging him to reinstate public access to the reports and other documents.¹⁹⁹ More than 100 House members also wrote to President Trump requesting the same action.²⁰⁰ Compelled by Congress, the USDA began restoring the public database of animal welfare records in February 2020.²⁰¹ Yet, at the time of writing, it has still not posted the required enforcement records and has failed to restore much of the functionality from an earlier version of the database.²⁰²

In its 2015-2019 Strategic Plan, APHIS promotes the improvement of animal welfare.²⁰³ APHIS outlines its intention to supplement the traditional inspection process with extensive consultation for struggling facilities. APHIS also states it will “partner with states or accredited professional or industry organizations, including the Association of Zoos and Aquariums and the Association for Assessment and Accreditation of Laboratory Animal Care International, to reduce inspection frequency, within legal requirements, for facilities that have implemented and documented strong animal care and welfare programs.” The reason given for reducing inspections is budget cutbacks.

Analysis

At the federal level, animal protection and responsibility for ensuring animal welfare do not cover all animal species or groups, or activities connected to animals. (For example, it is not clear that APHIS inspects fish farms.) There is no one department assigned to coordinate the improvement of animal welfare across agencies that manage specific aspects of regulation, and there is no one agency singularly responsible for all animal welfare.

Individual states have created much of the anti-cruelty legislation now available, including penalties for those committing harm to animals, or animals that cause harm to humans. The federal government’s responsibility is limited to specific circumstances, such as animal fighting and interstate animal transport, or increased after public outcry such as that which occurred in Hurricane Katrina’s aftermath. Since animals are not mentioned in the US Constitution, animal protection is mostly left up to the states to initiate and regulate – which creates a structural barrier to a consistent approach to improving animal welfare nationally.^{204,205}

That the federal government has acted on some animal welfare issues involving animal welfare in the past demonstrates the government can extend its actions for key issues, such as its international commitment to implement OIE standards. On the APHIS website, there is an active program around most animal protection issues the federal government addresses (as covered by the Animal Welfare Act, the Horse Protection Act, and the Animal Care Emergency Program).

¹⁹⁸ <https://www.sciencemag.org/news/2017/02/usda-blacks-out-animal-welfare-information>

¹⁹⁹ <https://www.wyden.senate.gov/imo/media/doc/20170213%20Letter%20to%20USDA%20re%20website%20info%20on%20animal%20abuse.pdf>

²⁰⁰ <https://www.peta.org/blog/leading-animal-protection-groups-others-sue-usda-website-blackout/>

²⁰¹ https://www.aphis.usda.gov/aphis/newsroom/stakeholder-info/sa_by_date/sa-2020/sa-02/awa-records

²⁰² <https://www.aspc.org/news/compelled-congress-usda-begins-restoring-database-animal-welfare-records>

²⁰³ <https://www.aphis.usda.gov/aphis/banner/aboutaphis>

²⁰⁴ David J. Wolfson, “Beyond the Law: Agribusiness and the Systematic Abuse of Animals Raised for Food or Food Production.” *Animal Law* 2, no. 123, 1996.



Above: A pod of spinner dolphins off the west coast of Oahu, Hawaii. Photo: World Animal Protection / Rachel Ceretto

Having federal inspectors placed throughout the country should ensure animal welfare standards are followed, but audits have found significant issues with enforcement. A 2013 audit by the USDA’s Office of the Inspector General of pig slaughter plants found that “FSIS [Food Safety and Inspection Service] inspectors did not take appropriate enforcement actions at eight of the 30 swine slaughter plants” visited for violations of the Humane Slaughter Act. The Inspector General also reviewed 158 humane handling noncompliance records (violations) issued to the 30 plants and found ten instances of egregious violations where inspectors did not issue suspensions. As a result, the plants did not improve their slaughter practices, and FSIS could not ensure the humane handling of swine.²⁰⁶ In addition to results from the audit, the USDA also removed public access to thousands of documents related to animal welfare violations – which means information about inspections done by APHIS found online is incomplete.²⁰⁷

One area with the potential to create consistency in animal welfare regulation is within the use of animals for research. Each institute engaged in the practice is required to have an Institutional Animal Care and Use Committee, and the NIH and Public Health Service promote alternatives to using animals in research.

Last, since our 2014 API publication, the Trump administration has rolled back protections for wildlife, frozen grants supporting climate research, and cut funding for the EPA.^{208,209,210} There seems to be little interest under the current leadership in improving environmental protection in the country, including biodiversity conservation.

²⁰⁵ M. Engebretson, Chapter 9: North America, in *Long Distance Transport and Welfare of Farm Animals*, edited by M.C. Appleby et al, WSPA, 2008.

²⁰⁶ <http://www.usda.gov/oig/webdocs/24601-0001-41.pdf>

²⁰⁷ <https://www.aphis.usda.gov/aphis/banner/aboutaphis>

²⁰⁸ https://www.washingtonpost.com/news/energy-environment/wp/2017/01/23/trump-administration-tells-epa-to-freeze-all-grants-contracts/?utm_term=.1f036b4800c4

²⁰⁹ <https://www.theguardian.com/environment/2017/jul/04/trump-emvironmental-rollback-epa-scrap-regulations>

²¹⁰ https://www.washingtonpost.com/news/energy-environment/wp/2018/02/12/trump-budget-seeks-23-percent-cut-at-epa-would-eliminate-dozens-of-programs/?utm_term=.f57ad5a4d08c

Enforcement mechanisms

Agencies with animal welfare enforcement authority receive funding to carry out those mechanisms; for example, actions to take under the Farm Bill. There is not, however, one agency with sole and direct responsibility for animal welfare.

Key recommendations

- The US allocates some resources to improving animal welfare through APHIS under the supervision of the USDA. Although federal agencies manage responsibilities for animal protection, such protection is extraordinarily limited and fragmented. World Animal Protection urges the federal government to increase its authority to improve animal welfare at the national level. We also strongly recommend creating a single department responsible for animal welfare, instead of delegating aspects to a variety of agencies.
- We also encourage the federal government to create a multi-stakeholder committee to engage all agencies that manage animal welfare to find solutions for problems that arise in management. APHIS works with external stakeholders, but such stakeholders, such as animal welfare organizations, experts, and others, should be part of a decision-making body at the federal level. A committee dedicated to animal welfare can take inspiration from the Council on Environmental Quality, which coordinates federal environmental efforts and works closely with agencies and other Executive Branch offices to develop environmental policies and initiatives.²¹¹ Congress established the committee as part of the National Environmental Policy Act of 1969. We believe it is a good model regarding the coordination of improving animal welfare nationwide, especially in light of several widely supported state-level initiatives. We also recommend establishing a task force or advisory council on animal protection – similar to the one in place for wildlife trafficking.²¹²
- As highlighted in APHIS’s 2015-2019 strategic plan, the agency’s operation is limited by inconsistent funding. We recommend the federal government commit to regularly funding APHIS to ensure the enforcement of animal welfare standards.
- Last, we urge APHIS to make all reports of its inspections publicly available on its website. This would demonstrate that the federal government is truly being transparent about ensuring consistent animal welfare standards and taking responsibility in its authority.

Next page: Member society GREY2K USA is dedicated to protecting racing greyhounds from cruelty. Thousands of dogs are seriously injured at racetracks every year and many are killed when they lose their winning edge.

²¹¹ <https://www.usa.gov/federal-agencies/council-on-environmental-quality>

²¹² <http://www.whitehouse.gov/blog/2013/09/09/announcing-advisory-council-president-s-taskforce-wildlife-trafficking>



Goal 4: Promotion of International Animal Welfare Standards

10. The government has incorporated the World Organization for Animal Health's (OIE) guiding principles for animal welfare and its animal welfare standards into policy and legislation

Legislative Analysis

Ranking

D

The World Organization for Animal Health (OIE) Animal Welfare Standards focus on transport, slaughter, production systems (beef cattle, broiler chickens, dairy cattle), stray dog population control, the use of animals in research and education, and working equids.²¹³

The US has been a member of the OIE since 1976 and recognizes the OIE's role as the international forum for setting animal health standards, reporting global animal health events, and disease status.

A 2011 APHIS factsheet, "Collaborating with the World Organization for Animal Health (OIE)," explains how Veterinary Services works to facilitate the domestic and international marketability of US animals and animal products through its National Center for Import and Export. The factsheet states the US is required to base its policies on the international standards set by OIE as part of World Trade Organization obligations.²¹⁴ APHIS's 2010-2015 strategic plan includes objectives regarding international standard-setting and effective management of sanitary and phytosanitary issues, and plan development to deal with disease risk issues.²¹⁵ In its 2015-2019 strategic plan, APHIS states it will "provide leadership and scientific expertise to OIE to ensure the development of science-based standards for addressing animal welfare."²¹⁶

Chapter seven of the OIE's Terrestrial Animal Health Code contains guiding principles for animal welfare and 11 animal welfare standards agreed upon by the OIE's 182 member countries, including the US. The US has incorporated only some elements of the guiding principles and the animal welfare standards within federal legislation. For instance, the AWA does not encompass the basic concept of the Five Freedoms, since it does not recognize the importance of animals having the freedom to perform normal behaviors or to be in a state of psychological well-being, with the exception of non-human primates.

The US also does not have federal legislation that covers the humane slaughter of poultry; humane transport of poultry; standards for all research facilities that encompass OIE obligations to animals such as rats, mice, and birds; and animal welfare in beef cattle production systems. There is also a lack of federal legislation and oversight on stray dog population control, although state legislation addresses this.

The Public Health Service Policy on Humane Care and Use of Laboratory Animals incorporates the "Three Rs" for animal welfare; the concept is outlined in the Guide for the Care and Use of Laboratory Animals. The US advances the "Three Rs" approach internationally, for example via the body International Collaboration on Alternative Test Methods.

²¹³ <http://www.oie.int/infographic/StandardsAW/index.html>

²¹⁴ https://permanent.access.gpo.gov/gpo112474/fs_woah_oie.pdf

²¹⁵ <https://www.emwh.org/issues/brucellosis/APHIS/APHIS%20Strategic%20Plan%202015.pdf>

²¹⁶ <https://www.aphis.usda.gov/aphis/banner/aboutaphis>

Analysis

For use of animals for scientific research, the US has demonstrated leadership in international forums and achieved progress for 21st century, non-animal approaches via its funding. Still, federal legislation continues to exclude rats, mice, and birds bred for research from protections under the AWA – which is not in line with the government's obligations under the OIE Terrestrial Animal Health Code.

The US has invested resources in improving the welfare of many animals during slaughter. Still, nine billion poultry a year are slaughtered without the benefit of any federal legislative protection.²¹⁷ In 2012, the National Chicken Council introduced its own guidelines for humane treatment of chickens at slaughter, which it updated in 2014. But analysis by the Animal Welfare Institute found the guidelines did not meet the minimum standards set by the OIE (such as permitted injury rates, maximum lairage times, and minimum electric current for stunning).²¹⁸

Last, having some animal protections managed at the federal level and others at state level is insufficient for national incorporation within legislation of the OIE's guiding principles on animal welfare and minimum animal welfare standards.

Enforcement mechanisms

There are enforcement mechanisms related to aspects of OIE standards included in federal legislation.

Key recommendations

- At present, mice and rats used for research, as well as poultry used for food, have no federal legislative protections. There is also a lack of federal laws protecting stray dog populations. For this reason, World Animal Protection strongly encourages the US to fully incorporate OIE's animal welfare standards within federal legislation, which would also help to standardize state legislation.

²¹⁷ <http://www.fsis.usda.gov/wps/portal/phis/topics/food-safety-education/get-answers/food-safety-fact-sheets/production-and-inspection/key-facts-humane-slaughter/key-facts-humane-slaughter>

²¹⁸ <https://awionline.org/content/awi-criticizes-chicken-industrys-revised-animal-care-standards>

11. The government has pledged in principle support for the Universal Declaration on Animal Welfare (UDAW)

Legislative Analysis

The US observed at an Intergovernmental Conference on Animal Welfare organized in Manila in 2003 during the drafting for a Universal Declaration on Animal Welfare (UDAW).

In 2008, the USDA advised the World Society for the Protection of Animals (WSPA; now World Animal Protection) of its support in principle for the UDAW.

Note: The UDAW is a proposed formal international acknowledgement of a set of principles that give animal welfare due recognition among governments and the international community. An expression of support for the UDAW demonstrates a government's commitment to working with the international community to improve animal welfare.

Analysis

The USDA has provided government support for the UDAW – an important step to promote animal welfare nationally. This support does not appear to be publicized, although the American Veterinary Medical Association also supports it.

Enforcement mechanisms

There are no enforcement mechanisms relevant to this indicator.

Key recommendations

- The US has provided government support to UDAW, through a statement from the USDA. We recommend that the US set an example for other countries to pledge support for the UDAW's principles.

Next page: Cows on the Food Animal Initiative (FAI) farm in Oxford, UK.

²¹⁹ Miah Gibson, "The Universal Declaration on Animal Welfare," *Deakin Law Review*, Volume 16, No 2, 2011 available at: <https://ojs.deakin.edu.au/index.php/dlr/article/view/112>





Above: Case study: White Oak Pastures in Georgia, rears 650 grass-fed cows (pictured), as well as sheep and free-range poultry. Animals live on the pastures their entire lives and can perform natural behaviors.
Photo: World Animal Protection



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