

## Animal Welfare Act Background Info

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## 1. SUMMARY OF THE ANIMAL WELFARE ACT

### Overview

The Animal Welfare Act (AWA) is a federal law passed in 1966 and has been amended several times since then. It empowers the Animal Care program of the USDA's Animal and Plant Health Inspection Service (APHIS) to issue licenses and adopt and enforce regulations. The AWA applies to facilities that breed animals for commercial sale, use animals in research, transport animals commercially, or publicly exhibit animals. This includes zoos, aquariums, research facilities, puppy mills, animal dealers, and circuses. The regulations adopted under the AWA establish minimum care standards for animals in these facilities, including adequate housing, handling, sanitation, nutrition, water, veterinary care and protection from extreme weather and temperatures. The AWA requires that the facilities be licensed and registered or their AWA-covered activities will be shut down. Once a facility is licensed or registered, they are subject to unannounced inspections. Failures to comply with AWA standards can lead to fines, confiscation of the animals, license/registration revocation, and/or cease and desist orders.

However, not every animal kept by these facilities is covered. The AWA has exclusions for birds, rats, and mice used in research; livestock used for food or fiber; reptiles; amphibians; fish; and invertebrates. Facilities that are not covered include farms, pet stores and hobby breeders. Therefore, because 95% of the animals used in research are mice and rats and because the nine billion land animals slaughtered for food in the U.S. every year are exempted, the vast majority of animals used by humans are excluded from the AWA's protection.

## **Timeline**

The AWA has been amended several times since its initial passage in 1966. The highlights of these amendments are detailed as follows:

1966: On August 24, the Laboratory Animal Welfare Act (P.L. 89-544) is signed into law. The Act sets minimum standards of care and housing for dogs, cats, primates, rabbits, hamsters and guinea pigs in the premises of animal dealers and laboratories, and it requires identification of dogs and cats to prevent theft. Dealers must be licensed and laboratories must be registered.

1970: On December 24, Congress amends the Laboratory Animal Welfare Act (P.L. 91-579), renamed the Animal Welfare Act, to expand the definition of “animal” to include warm-blooded animals generally used for research, testing, experimentation or exhibition, or as pets, but excluding farm animals and mice, rats, and birds used in research. The expanded coverage also now applied to animal exhibitors (i.e., circuses, zoos and roadside shows) and wholesale pet dealers (including breeders who sell to others under the Act). It also required that humane standards be maintained at all times, and that animals be given the appropriate use of pain-killing drugs, provided it did not interfere with the research, an exception that widely invoked.

1976: Congress passes an amendment (signed into law on April 22) to broaden the Animal Welfare Act (P.L. 94-279) so as to, among other things: regulate carriers, intermediate handlers and animal brokers, so as to require adherence to humane standards; specify that all dogs - including dogs for hunting, security or breeding purposes - be protected; require a veterinarian’s certificate for animals in interstate transport; require all federal agencies - including the Army, Air Force and National Institutes of Health - using laboratory animals to show they fully comply with the Act; and render it a crime to sponsor or promote fighting between live birds, dogs or other mammals in interstate commerce.

1985: On December 23, the Food Security Act (P.L. 99-198), an omnibus farm bill, is adopted into law. The Improved Standards for Laboratory Animals Act (ISLAA) is included within the Food Security Act. ISLAA is an amendment to the AWA, intended to minimize the pain and distress of animals in the laboratory. It establishes an information service in the National Agricultural Library, in cooperation with the National Library of Medicine, to provide data on alternatives to animals in research, help prevent unintended duplication of experiments and tests, and supply information to institutions for training scientists and other personnel in humane practices, as required by the new law.

Each registered research facility must appoint an institutional animal committee, including a veterinarian and an unaffiliated person, to represent the general community interest in the welfare of the animals. The committee must inspect the animal laboratories twice a year and report deficiencies to the institution for correction. If not corrected promptly, the USDA must be notified for enforcement action, and any funding agency involved must be informed so that they can make a decision on whether the grant should be suspended or revoked.

Furthermore, investigators are required to consider alternatives and to consult with a veterinarian before beginning any experiment that could cause pain. They must adhere to standards set by the Secretary of Agriculture for pre- and post-surgical care and the use of pain-relieving drugs or euthanasia, and against the use of paralytics without anesthesia and the unnecessary use of the same animal for more than one major operation. Exceptions to the standards may be made only when specified by a research protocol and an explanation is provided for any deviation. Fines for violations rise from \$1,000 to \$2,500 for an AWA violation and from \$500 to \$1,500 for failure to obey a cease and desist order. Each day that an AWA violation or failure to obey a cease and desist order continues is considered a separate violation.

Finally, provisions were also added that dogs held by research facilities be exercised and a requirement that research facilities provide “a physical environment adequate to promote the psychological well-being of primates.” The psychological well-being component is discussed in more detail below.

1990: On November 28, the Food, Agriculture, Conservation, and Trade Act (FACTA) (P.L. 101-624), an omnibus farm bill, is adopted into law. The Pet Theft Act, included in FACTA, is an amendment to the AWA, requiring pounds to hold dogs and cats for five days before releasing them to dealers. The AWA is further amended to allow the USDA to seek injunctions against any licensed facility found dealing in stolen animals or placing the health of any animal in serious danger in violation of the Act. Also, Class B, or random source, animal dealers were required to provide the recipient with a valid certification including a detailed description of the animal and the source from which it was obtained, and a statement was required from the provider of the animals that they knew that the dog or cat may be used for research when they released it to the Class B dealer.

2002: On May 13, the Farm Security and Rural Investment Act (P.L. 107-171), an omnibus farm bill, is signed into law. It includes language changing the definition of “animal” under the AWA to specifically exclude birds, rats, and mice bred for use in research.

2008: On June 18, the Food, Conservation, and Energy Act (P.L. 110-246), an omnibus farm bill, is adopted into law. It includes an amendment to the AWA which increased fines for violations of the law from \$2,500 to \$10,000 per violation, per animal, per day.

Prior to final passage, a provision of the bill to phase out sale and use of random source dogs and cats is dropped—although it had been adopted by both the House and Senate. It is replaced with language calling for a study of Class B dealers by the National Institutes of Health, and instructing the USDA to respond to the House and Senate Agriculture Committees on the study. This report, issued by the National Academies of Science, concluded that although “random source dogs and cats may be desirable and necessary for certain types of biomedical research, it is not necessary to acquire them through Class B dealers.”

## **2. NONHUMAN PRIMATE PSYCHOLOGICAL WELL-BEING SECTION IN THE ANIMAL WELFARE ACT**

The psychological well-being provision of the [AWA](#) states that there must be provided a “physical environment adequate to promote the psychological well-being of primates.” Further, [AWA regulations](#) specify that the following is required (see “§ 3.81 Environment enhancement to promote psychological well-being” below for full text): social grouping; environmental enrichment; special consideration for infants, those showing signs of psychological distress, those that are individually housed and cannot see or hear others of their species, great apes weighing over 110 pounds; and restrictions on when and for how long restraint devices may be used. The regulations also allow for exemptions to the aforementioned requirements if it is deemed necessary for the nonhuman primate’s well-being or for scientific reasons set forth in the research protocol.

It is difficult to know exactly what led to the addition of the psychological well-being to the AWA though two particularly high profile instances of laboratory animal abuse that came to light a few years prior to the psychological well-being provision being in 1985 could have played some role.

One such case involved The Institute for Behavioral Research in Silver Spring, Maryland (case often referred to as the “Silver Spring Monkeys”) where an employee, Alex Pacheco, founder of PETA, was working as an undercover investigator in the summer of 1981. Pacheco documented Dr. Edward Taub’s experiments on neurology, in which monkeys had all nerve function cut off in one arm. The purpose of the study was to find out if monkeys could be trained to use the “deafferented” arm, despite loss of feeling. Due to the monkeys’ psychological distress from being housed with no regard to psychological well-being, they began to exhibit signs of extreme stress, such as self-mutilation. Pacheco also recorded evidence that the lab was dirty and that some monkeys’ wounds were left untreated. One monkey died in a fight with other monkeys. Pacheco’s expose gained international media coverage and elicited outrage from celebrities and regular citizens alike. Animal cruelty charges were brought against Dr. Taub but eventually dropped.

In 1984, another monkey abuse case came to the public's attention. The University of Pennsylvania Head Trauma Clinic, which researched the effects of head trauma on baboons, was infiltrated by the Animal Liberation Front (ALF) May 1984. ALF recorded proof of forcible injury as well as maltreatment of the animals, and the U.S. government halted the experiments in July 1985. In sum, while we cannot know for sure if either of these cases played a role in the psychological well-being component's addition to the AWA, because they were so public and so disturbing, they may have.

### **3. CODE OF FEDERAL REGULATIONS, SECTION 3.81, ENVIRONMENT ENHANCEMENT TO PROMOTE PSYCHOLOGICAL WELL-BEING**

Dealers, exhibitors, and research facilities must develop, document, and follow an appropriate plan for environment enhancement adequate to promote the psychological well-being of nonhuman primates. The plan must be in accordance with the currently accepted professional standards as cited in appropriate professional journals or reference guides, and as directed by the attending veterinarian. This plan must be made available to APHIS upon request, and, in the case of research facilities, to officials of any pertinent funding agency. The plan, at a minimum, must address each of the following:

(a) *Social grouping.* The environment enhancement plan must include specific provisions to address the social needs of nonhuman primates of species known to exist in social groups in nature. Such specific provisions must be in accordance with currently accepted professional standards, as cited in appropriate professional journals or reference guides, and as directed by the attending veterinarian. The plan may provide for the following exceptions:

(1) If a nonhuman primate exhibits vicious or overly aggressive behavior, or is debilitated as a result of age or other conditions (e.g., arthritis), it should be housed separately;

(2) Nonhuman primates that have or are suspected of having a contagious disease must be isolated from healthy animals in the colony as directed by the attending veterinarian. When an entire group or room of nonhuman primates is known to have or believed to be exposed to an infectious agent, the group may be kept intact during the process of diagnosis, treatment, and control.

- (3) Nonhuman primates may not be housed with other species of primates or animals unless they are compatible, do not prevent access to food, water, or shelter by individual animals, and are not known to be hazardous to the health and well-being of each other. Compatibility of nonhuman primates must be determined in accordance with generally accepted professional practices and actual observations, as directed by the attending veterinarian, to ensure that the nonhuman primates are in fact compatible. Individually housed nonhuman primates must be able to see and hear nonhuman primates of their own or compatible species unless the attending veterinarian determines that it would endanger their health, safety, or well-being.
- (b) *Environmental enrichment.* The physical environment in the primary enclosures must be enriched by providing means of expressing noninjurious species-typical activities. Species differences should be considered when determining the type or methods of enrichment. Examples of environmental enrichments include providing perches, swings, mirrors, and other increased cage complexities; providing objects to manipulate; varied food items; using foraging or task-oriented feeding methods; and providing interaction with the care giver or other familiar and knowledgeable person consistent with personnel safety precautions.
- (c) *Special considerations.* Certain nonhuman primates must be provided special attention regarding enhancement of their environment, based on the needs of the individual species and in accordance with the instructions of the attending veterinarian. Nonhuman primates requiring special attention are the following:
- (1) Infants and young juveniles;
  - (2) Those that show signs of being in psychological distress through behavior or appearance;
  - (3) Those used in research for which the Committee-approved protocol requires restricted activity;
  - (4) Individually housed nonhuman primates that are unable to see and hear nonhuman primates of their own or compatible species; and

- (5) Great apes weighing over 110 lbs. (50 kg). Dealers, exhibitors, and research facilities must include in the environment enhancement plan special provisions for great apes weighing over 110 lbs. (50 kg), including additional opportunities to express species-typical behavior.
- (d) *Restraint devices.* Nonhuman primates must not be maintained in restraint devices unless required for health reasons as determined by the attending veterinarian or by a research proposal approved by the Committee at research facilities. Maintenance under such restraint must be for the shortest period possible. In instances where long-term (more than 12 hours) restraint is required, the nonhuman primate must be provided the opportunity daily for unrestrained activity for at least one continuous hour during the period of restraint, unless continuous restraint is required by the research proposal approved by the Committee at research facilities.
- (e) *Exemptions.*
- (1) The attending veterinarian may exempt an individual nonhuman primate from participation in the environment enhancement plan because of its health or condition, or in consideration of its well-being. The basis of the exemption must be recorded by the attending veterinarian for each exempted nonhuman primate. Unless the basis for the exemption is a permanent condition, the exemption must be reviewed at least every 30 days by the attending veterinarian.
  - (2) For a research facility, the Committee may exempt an individual nonhuman primate from participation in some or all of the otherwise required environment enhancement plans for scientific reasons set forth in the research proposal. The basis of the exemption shall be documented in the approved proposal and must be reviewed at appropriate intervals as determined by the Committee, but not less than annually.
  - (3) Records of any exemptions must be maintained by the dealer, exhibitor, or research facility and must be made available to USDA officials or officials of any pertinent funding Federal agency upon request.

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