



March 08, 2022

The NABR Update is a news summary of federal and state government affairs, animal rights activities, and other issues related to animal research that may have a direct effect on your organization or its constituents. It's an exclusive service available for NABR members only. If your organization is interested in joining NABR or if you have any questions or suggestions, please email us at [info@nabr.org](mailto:info@nabr.org).

## **FEDERAL**

### **APHIS Publishes Proposed Rule on Birds not Bred for Research**

On Feb. 22, 2022 APHIS published a proposed rule entitled “[Standards for Birds Not Bred for Use in Research Under the Animal Welfare Act](#).” Comments must be received by April 25, 2022. The proposed amendments to the regulations and establishment of standards exclude birds bred for use in research. “Only those research facilities that use wild-caught birds for research, testing, teaching, or experimentation, including activities such as investigations into animal propagation and wildlife ecology, would be subject to the provisions of this proposed rule. Facilities using birds bred for use in research would not be subject to this rule.”

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In addition to the changes to the regulations and additions to the standards APHIS is proposing to add a definition of “bred for use in research,” which “means an animal that is bred in captivity and is being used or is intended for use for research, teaching, testing, or experimentation purposes.” NABR is seeking clarification about how this definition applies to breeders whose primary source of income is not breeding animals intended for research. For institutions that will be covered, it should be noted the standards that govern temperature/humidity, primary enclosure space requirements and environmental enhancement lack prescriptive details, but require that the standards be part of the written program of veterinary care.

### **APHIS Letters of Warning: An Analysis**

On June 1, Animal Care resumed issuing Letters of Warning, which are APHIS Form 7060. Situations that may warrant the issuance of a 7060 that are most applicable to research facilities are:

- Depending on the severity, a critical NCI, if no 7060 has been issued within the last 3 years.
- Animal death considering history, circumstances, and corrective action timeline (i.e., accidental, good history of compliance, proactive response, corrective action taken quickly to prevent recurrence).

In FY 2021, the USDA Animal Care Public Search Tool database of inspection reports of research facilities contained 59 Critical NCI's involving 42 institutions. In addition, there were 4 Direct NCIs involving 4 additional institutions.

The first 7060 issued to a research facility following the resumption was for an inspection that occurred on April 20, 2021. Ten institutions that were cited for critical NCIs in FY 2021 that involved inspections occurring prior to April 20 did not receive letters of warning. There were 29 letters of warning issued to research facilities in FY2021, of which 25 were for critical NCIs and 4 were for Direct NCIs.

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There were 7 research facilities that received citations for critical NCIs after the resumption but did not receive letters of warning. A review of those inspection reports revealed either multiple critical citations on their most recent inspection report or multiple critical citations in recent years, which would appear to indicate the USDA was already further along in the enforcement process and thus no letter of warning was issued.

Based on NABR's review of the FY 2021 inspection reports and the issuance of letters of warning since that process was resumed, it appears that facilities cited for a critical noncompliance have a high probability of receiving an official letter of warning.

## **STATE LEGISLATION**

### **Virginia General Assembly Approves Five Bills Aimed at Research Canine Breeding**

As NABR previously reported, several bills targeting the breeding of research animals have continued to be fast-tracked through the Virginia General Assembly. This week, five of these bills unanimously passed both chambers and will now go to Gov. Youngkin's desk to be signed into law. Below is a breakdown of the bills.

**SB87: Dealers; sale of dogs or cats for experimental purposes.** Prohibits a dealer or commercial dog or cat breeder, as defined in the bill, from importing for sale, selling, or offering for sale a dog or cat bred by a person who has received certain citations pursuant to the federal Animal Welfare Act. Current law only prohibits such activities related to the sale of dogs. The bill also clarifies that selling includes selling the dog or cat for experimental purposes. Certain provisions of the bill apply only to violations occurring on or after March 1, 2023.

**SB88: Breeders; records of animals sold or transferred to animal testing facility.** Requires entities that breed dogs or cats for sale or transfer to an animal

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testing facility to keep records of each animal for two years from the date of the sale or transfer, and to annually submit a summary of the records to the state veterinarian.

[SB90](#): **Breeders of dogs and cats for animal testing facilities; adoption of dogs and cats.** Requires a breeder of dogs and cats for sale or transfer to an animal testing facility that no longer has a need for a dog or cat in its possession to offer the animal for adoption prior to euthanizing it. Currently, only animal testing facilities are subject to this requirement.

[SB604](#): **Animal cruelty; companion animals; penalty.** Clarifies that dogs and cats in the possession of a person who or an entity that breeds dogs or cats for sale or transfer to an animal research facility are considered companion animals for the purposes of animal cruelty statutes. The bill also provides that breeding dogs or cats for sale or transfer to a research facility, or breeding dogs or cats within a research facility, does not constitute bona fide scientific or medical experimentation for purposes of animal cruelty statutes. The provisions of the bill are contingent on funding in a general appropriation act and do not become effective unless reenacted by the 2023 session of the General Assembly.

[HB1350](#): **Dealers; sale of dogs or cats for experimental purposes.** Prohibits a dealer or commercial dog or cat breeder, including an entity that breeds dogs or cats regulated under federal law as research animals, from importing for sale, selling, or offering for sale a dog or cat bred by a person who has received certain citations pursuant to the federal Animal Welfare Act.

## **LEGAL**

### **USFWS V. CBD Freedom of Information Act Appeal Resolved**

NABR is pleased to report that Humane Society International (HSI)'s Freedom of

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Information Act (FOIA) request seeking to attain NABR members' confidential business information related to primate importation has been formally withdrawn. NABR's previous legal intervention in the U.S. Fish and Wildlife Service (USFWS) vs Center for Biological Diversity (CBD) case proved instrumental in the case. .

This confidential information is related to the importation of nonhuman primates for research contained in the Law Enforcement Management Information System (LEMIS) database, which was in the possession of the U.S. Fish and Wildlife Service. The CBD also filed another lawsuit in Arizona Federal District Court in hopes to force USFWS to release LEMIS data. However, HSI has informed USFWS that they are no longer seeking the LEMIS data and therefore agreed to dismiss NABR's pending appeal.

Read the stipulation of dismissal: <http://go.pardot.com/e/858023/download-file-575-0/dn671/414964626?h=KtUDQTKU8u2JA1OZB9MPGFYfzePrh8Y8BjQNz-82rw8>

## **ANIMAL RIGHTS NEWS**

### **White Coat Waste Project Accused of Violating Tax Laws**

In a new report released by The Daily Beast, the animal rights group White Coat Waste Project (WCW) is accused of accepting illegal donations and violating federal tax laws, according to a complaint filed with the IRS and the FEC, by the Campaign for Accountability.

The anti-animal research group has a history of working to end taxpayer funding for cat and dog research at the VA, monkey research at the FDA, and projects at NIAID.

A self-styled "taxpayer watchdog" group, WCW claims "taxpayers shouldn't be forced to pay over \$20 billion every year for wasteful and cruel experiments on dogs, cats, monkeys, and other animals." The group website says, "Uncle Sam

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outspends the private sector more than 2-to-1 on animal experimentation, so cutting this reckless government spending addresses the main source of the U.S.'s animal testing problem." WCW's stated role is "to investigate and expose" the problem.

Yet, the group may have violated multiple federal laws.

Campaign for Accountability's complaint, filed with the IRS and the FEC, focuses on White Coat Waste Project's involvement in the White Coat Waste PAC's activities. It states the WCW PAC website, which is used to raise money, is registered, and maintained by the WCWP, a 501(c)(3), in violation of the IRS code and FEC regulations. The complaint also indicates the WCW PAC made donations to elected officials whom the WCWP lobbied on an anti-animal testing bill, another violation of the IRS code and FEC regulations for 501(c)(3) organizations.

Campaign for Accountability Executive Director Michelle Kuppersmith told The Daily Beast: "Letting these types of violations go on unpunished would set an unfortunate precedent that would only make future violations more likely."

A WCW spokesperson said the organization is compliant with the law.

The article is available [here](#).

The official complaint is available [here](#).

## **ANNOUNCEMENTS**

**[Members of University of Washington IACUC Jointly File Lawsuit Against University of Washington](#)**

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Five members of a University of Washington committee responsible for reviewing all animal-based research proposals have filed a lawsuit against the university seeking to protect themselves, their families, and their colleagues from escalating hostility and harassment from activists who oppose animal research.

One co-plaintiff in the federal suit is University of Washington neuroscientist and faculty member Jane Sullivan, Ph.D. Dr. Sullivan serves as chair of the University of Washington's Institutional Animal Care and Use Committee (IACUC), a formal body required under federal law within the Animal Welfare Act at all institutions that conduct animal studies. Staffed by veterinary and health research experts along with non-scientists and unaffiliated members not employed by the university, the committee's task is to review all university proposals for animal-based research, ensure the use of animals is appropriate, and request research protocol adjustments as needed to ensure humane animal care.

In addition to Dr. Sullivan, four other members of the University of Washington's IACUC committee, including another co-plaintiff, joined the suit anonymously. Together the five members of the University of Washington community are asking the court to block attempts by People for the Ethical Treatment of Animals to obtain their identities and also the names of more than 70 of their colleagues who either currently serve or have served on the University of Washington IACUC committee. The five committee members requested their personal information not be publicly disclosed in the wake of several troubling incidents highlighted in court filings.

In a press release, National Association for Biomedical Research president Matthew R. Bailey said: "University of Washington IACUC members should be able to perform their duties without fear of harassment or threats. There has been a long and despicable history of harassment and intimidation tactics committed against employees of institutions who engage in humane and ethical animal research. IACUC members and researchers who work with animal models are as

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deeply committed to animal care as they are to advancing life-saving research. NABR supports the exemption of personal identifying information in open records laws precisely because of such targeting. Instead of painting a target on the backs of IACUC members and researchers, we should support their efforts to improve the lives of both humans and animals alike.” Read the full press release to learn more:

<http://go.pardot.com/e/858023/-against-university-washington/dn677/414964626?h=KtUDQTKU8u2JA1OZB9MPGFYfzePrh8Y8BjQNz-82rw8>

### **EU Commission Officially Recognizes the Importance of Animal Research**

The European Animal Research Association (EARA) has welcomed the EU Commission’s recognition of the continuing vital importance of animal research in the wake of the recent vote by the European Parliament to hasten its phase-out. EU commission’s statement defended the role animals play in “developing safe and effective drugs and treatment for the benefit of society and rejected the need for any additional bureaucratic structures,” an EARA press release said.

EARA Executive Director Kirk Leech said: “Activist groups, and certain MEPs, may want to give the impression that animal research is ‘outdated science’, however, the successful development of CRISPR and Covid-19 vaccines has shown that state-of-the-art science understands the value of animal data and the innovative solutions it provides to the challenges we face in the future.”

Read the Commission’s statement: [http://go.pardot.com/e/858023/dure-do-reference-2021-2784RSP/dn679/414964626?h=KtUDQTKU8u2JA1OZB9MPGFYfzePrh8Y8BjQNz-82rw8\)&l=en](http://go.pardot.com/e/858023/dure-do-reference-2021-2784RSP/dn679/414964626?h=KtUDQTKU8u2JA1OZB9MPGFYfzePrh8Y8BjQNz-82rw8)&l=en)

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## **Register for NABR's Upcoming Webinar on the Evolution of Ethics and Regulation of Animal Research**

Please join us on April 5, 2022, when guest speaker Ernie Prentice discusses "Selected Events in the Evolution of the Ethics and Regulation of Research Involving Animals."

The evolution of the ethics and regulation of research involving animals has a rich and interesting history, filled with many drivers of change. This presentation will focus on selected key events including the thalidomide tragedy in the 1960s; the first cardiac transplant in a human in 1964; the genesis of the 1966 Laboratory Animal Welfare Act; the beginning of the modern era of the animal rights movement in 1981; high profile break-ins at institutions by animal activists in the 1980s; the first, and only, cardiac xenograft in a neonate in 1984; the 1985 amendment of the Animal Welfare Act marking the birth of IACUCs; and, finally, the rebirth of xenotransplantation in the 1990s, which was primarily halted because of concerns about both ethics and zoonoses, but has recently gained attention with the recent transplant of a heart from a genetically engineered pig into a terminally ill man.

So please join us for what promises to be a very interesting and informative presentation on selected events in biomedical research that helped shape the environment in which we work today.

RSVP: <http://go.pardot.com/e/858023/register-8569510484357963280/dn67c/414964626?h=KtUDQTKU8u2JA1OZB9MPGFYfzePrh8Y8BjQNz-82rw8>.

### **On the Lighter Side**

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Given the fair amount of news surrounding attempts to secure legal standing, or “personhood”, for animals in the courts, NABR thought it would be worth sharing a little comedy in the same vein. A recent, “Saturday Night Live” skit titled “Monkey Trial” poked fun at humans and non-human primates (NHPs) as “a lawyer (Kenan Thompson) and his client (Melissa Villaseñor) attempt to win a settlement as they face a different kind of judge (John Mulaney).”

Enjoy [here](#).

NABR | 1100 Vermont Avenue, NW, Suite 1100 | Washington, DC 20005 |  
Tel 202.857.0540 | Fax 202.659.1902 | [info@nabr.org](mailto:info@nabr.org)