

Report on the Importation of Live Dogs into the United States

United States Department of Agriculture

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Executive Summary

Title XII, Section 12509, of the Agriculture Improvement Act of 2018 directed the Secretary of Agriculture, in consultation with the Secretaries of Commerce, Health and Human Services (HHS), and Homeland Security (DHS), to submit a report to Congress on the importation of live dogs. The report must contain data for the three most recent calendar years, on the number of live dogs imported into the United States (including those imported for use as personal pets and for resale), and the number of live dogs that were denied importation for failing to meet applicable Federal laws. The report must also present any recommendations by the Secretary for modifications to Federal laws (including regulations) relating to the importation of dogs.

This report summarizes data concerning the estimated 1.06 million live dogs imported into the United States each year. The vast majority of these dogs are assumed to be personal pets traveling with or to their owners, based on data concerning the use of dogs in the United States. In 2018, the United States Department of Agriculture (USDA) issued permits for 2,917 dogs that were imported for resale purposes under the Animal Welfare Act (AWA). This represented a significant increase over the previous two calendar years due to increased outreach efforts to individuals and entities that may require a permit and to airlines that frequently move dogs into the United States. Dogs have been denied entry into the United States for failing to comply with HHS' Centers for Disease Control and Prevention (CDC)'s regulations governing the importation of animals capable of causing human disease. For example, CDC and Homeland Security's Customs and Border Protection denied the entry of 317 dogs in 2018 for this reason.

This report recommends an amendment to the AWA to clarify the USDA's authority to deny the entry of dogs into the United States that fail to comply with the importation of live dogs provision. This modification would enable the USDA to better ensure that imported dogs intended for resale are in compliance with the law. Even with this change, however, it is estimated that the AWA's import requirements would apply to less than 0.28 percent of the dogs imported into the United States each year. If further statutory or regulatory action is considered, it is important to define the unresolved concerns involving dogs imported into the United States to ensure the solution is narrowly tailored and reasonably designed to resolve such concerns and achieve the Congressional purposes.

Introduction

Title XII, Section 12509, of the Agriculture Improvement Act of 2018 directed the Secretary of Agriculture to submit a report on the importation of live dogs into the United States to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. The report must contain data for the three most recent calendar years on the number of live dogs imported into the United States (including those imported as personal pets and for resale), and the number of live dogs that were denied importation for failure to meet applicable Federal laws. The report must also present any recommendations by the Secretary for modifications to Federal laws (including regulations) relating to the importation of dogs, including for the protection of public health. To aid in the preparation of the report, the Agricultural Improvement Act of 2018 directed the Secretaries of Commerce, Health and Human Services (HHS), and Homeland Security to provide the Secretary of Agriculture with all related data and information and their recommendations for modifications to Federal law.

The Secretary of Agriculture administers the Animal Welfare Act (AWA), which establishes humane standards for the transportation, sale, and handling of certain animals and includes prohibitions on animal fighting ventures and provisions intended to prevent the theft of personal pets.¹ In 2008, Congress amended the AWA to prohibit the importation, for “resale” purposes, of dogs that are not at least 6 months old, in good health, and vaccinated.^{2, 3} (The term “resale” includes sales, adoptions, and other transfers of ownership or control of imported dogs for more than *de minimis* consideration.)

The AWA directs the Secretaries of Agriculture, Commerce, HHS, and Homeland Security to issue such regulations as the Secretaries determine to be necessary to implement and enforce these prohibitions.⁴ In 2014, the United States Department of Agriculture (USDA) established regulations under the AWA requiring that any dog imported for resale must be accompanied at the time of entry by an import permit, a valid rabies certificate, and a health certificate attesting to the age and good health of the dog and that the dog has been effectively vaccinated against distemper, hepatitis, leptospirosis, parvovirus, and parainfluenza virus (DHLPP).⁵

Although the AWA does not provide the Secretary with express authority to deny the entry of dogs that do not meet the AWA’s import requirements, importers who fail to comply with such provisions may be assessed penalties and may be ordered to cease and desist from future violations, after notice and opportunity for a hearing, and to provide for the care (including appropriate veterinary care), forfeiture, and adoption of each applicable dog, at his or her own expense.⁶ If the USDA has reason to believe that a person is importing dogs for resale without meeting the applicable requirements, it may contact them and/or conduct an investigation to obtain additional information and determine appropriate action.

The Secretary of Agriculture also administers the Animal Health Protection Act, which, among other things, authorizes the Secretary to prohibit or restrict the importation or entry of any animal if the Secretary determines such action is necessary to prevent the introduction into or dissemination within the United

¹ 7 U.S.C. § 2131 *et seq.*

² 7 U.S.C. § 2148.

³ The AWA provides exceptions to these requirements for dogs imported for resale for research purposes or veterinary treatment. Also, the AWA provides an exception to the 6 month age requirement for dogs imported to Hawaii from the British Isles, Australia, Guam, or New Zealand.

⁴ 7 U.S.C. § 2148(c).

⁵ 9 C.F.R. § 2.150 – 2.153.

⁶ 7 U.S.C. §§ 2148(d), 2149(b).

States of *any pest or disease of livestock*.⁷ With respect to pests and diseases of livestock, USDA regulations restrict or strictly regulate the entry of dogs from any region of the world where screwworm is known to exist, as well as the entry of dogs used in the handling of livestock from any region of the world except Canada, Mexico, and regions of Central America and the West Indies to determine their freedom from tapeworm.⁸ The Secretary may restrict the entry or importation of any dog that does not comply with the import requirements⁹ or, may, hold, seize, or quarantine an animal if certain conditions are present.¹⁰ The importer may also be liable for penalties for violations of the Act or regulations, after notice and opportunity for a hearing.¹¹

Under the Public Health Service Act, the Secretary of HHS may make and enforce such regulations as in his or her judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the United States and from one State or possession into any other State or possession.¹² Since 1956, Federal quarantine regulations have controlled the entry of dogs into the United States.¹³ One of the principal goals of these regulations is to prevent the introduction and spread of rabies into the United States by requiring valid rabies certificates for dogs imported from rabies-affected countries.¹⁴

The Tariff Act of 1930, as amended, subjects merchandise, including dogs, imported into the customs territory of the United States to entry and clearance procedures.¹⁵ In accordance with the Tariff Act, CBP established by regulation entry procedures for merchandise imported for commercial purposes, with exceptions for certain shipments that do not exceed \$2,500, and for merchandise imported for personal use, with exemptions for goods that do not exceed \$800.¹⁶ With regard to dogs, CBP inspects shipment of dogs that require clearance for admissibility and may contact the appropriate partner agency if an admissibility determination cannot be made at the time of inspection. CBP has the authority to refuse entry of dogs that fail to comply with CDC requirements and the importer would be required to provide evidence that the dogs were re-exported.

The Department of Commerce, in participation with CBP and the U.S. Census Bureau, tracks the movement of goods that affect commerce, including dogs, that require entry by CBP with a declared value of \$2,000 or greater.

Data on the Importation of Live Dogs

Number of Dogs Imported into the United States

The AWA, Animal Health Protection Act, Public Health Service Act, and the Tariff Act of 1930, individually or collectively, do not authorize the federal government to track the total number of dogs imported into the United States. Because of the specific, purpose-based authority granted to Federal agencies, there is no

⁷ 7 U.S.C. § 8303(a) (emphasis added).

⁸ 9 C.F.R. § 93.600.

⁹ 7 U.S.C. § 8303(a)

¹⁰ 7 U.S.C. § 8306.

¹¹ 7 U.S.C. § 8313.

¹² 42 U.S.C. § 264.

¹³ 42 C.F.R. § 71.51.

¹⁴ For a current list of rabies-affected countries that are subject to CDC's requirements, please visit <https://www.cdc.gov/importation/bringing-an-animal-into-the-united-states/rabies-vaccine.html>.

¹⁵ 19 U.S.C. § 1484(a).

¹⁶ See 19 C.F.R. Part 10.

single tracking system that captures the total number of dogs imported into the United States. For example, CDC does not track dogs entering the United States from rabies-free countries or dogs with proof of immunization,¹⁷ USDA does not track dogs imported into the United States for purposes other than resale as defined by the AWA, and CBP and Commerce do not track shipments of dogs that fall below their thresholds.^{18, 19} However, CDC recently estimated that approximately 1.06 million dogs enter the United States each year, including 700,000 arriving at airports and 360,000 arriving at land border ports of entry within Canada and Mexico.²⁰

Number of Dogs Imported for Personal Pets

USDA is the only Federal agency that tracks the purpose of importation for dogs, and this tracking is limited to dogs imported for resale purposes. However, based on available information, it is reasonable to assume that the majority of dogs imported into the United States, which includes dogs traveling with their owners, are personal pets. Sources indicate that forty-eight percent of U.S. households, or about 60.2 million families, own dogs.²¹ In total, there are an estimated 89.7 million dogs in the United States.²² Based on available data regarding dogs in the United States used for purposes other than as personal pets, such as military, police, exhibition, breeding, research, and service animals, we estimate that less than 1 percent of dogs in the United States are used for purposes other than as personal pets.²³

Number of Dogs Imported for Resale

In 2018, the USDA issued permits for 2,917 dogs that were imported for resale purposes under the AWA – a significant increase over the previous two years (137 in 2017, and 7 in 2016). This increase is due, in part, to USDA's continuing development of its live dog import program following implementation of the 2014 importation of live dogs regulations, an enhanced informational campaign to ensure that dog importers are aware of the requirements, and rapid follow-up on instances of importation without the requisite paperwork, to avoid future noncompliance.

Based on the CDC's recent estimate that approximately 1.06 million dogs enter the United States each year and USDA's issuance of permits for 2,917 dogs in 2018, it is estimated that the AWA's import requirements

¹⁷ CDC does capture the number of imported dogs for which CBP seeks consultation with CDC prior to entry (1,444 dogs in 2018, 1,689 dogs in 2017, and 1,502 dogs in 2016), and for which CDC issues permits to allow unimmunized dogs to enter the United States, regardless of whether the dog is actually imported (2,773 dogs in 2018, 867 dogs in 2017, and an unknown number in 2016, as information is unavailable).

¹⁸ CBP does capture data based on entries filed or submitted to CBP involving imported dogs (24,410 dogs in 2018, 25,077 dogs in 2017, and 22,050 dogs in 2016).

¹⁹ Commerce does capture data on the number of imported dogs based on information it receives from CBP where an entry was filed listing the merchandise value of the dogs as \$2,000 or greater (11,544 dogs in 2018, 11,600 dogs in 2017, and 13,729 dogs in 2016).

²⁰ <https://www.federalregister.gov/documents/2019/01/31/2019-00506/guidance-regarding-agency-interpretation-of-rabies-free-as-it-relates-to-the-importation-of-dogs>. In 2008, J. H. McQuiston (Division of Global Migration and Quarantine, Centers for Disease Control and Prevention (CDC)) and other contributors, published an article entitled, "Importation of Dogs into the United States: Risks from Rabies and Other Zoonotic Disease," available at <https://onlinelibrary.wiley.com/doi/epdf/10.1111/j.1863-2378.2008.01117.x>. At that time, McQuiston estimated, based on an extrapolation of limited importation data, that more than 287,000 dogs were imported into the United States in 2006.

²¹ American Pet Products Association's 2017-2018 National Pet Owners Survey.

²² Id.

²³ Sources: USDA internal communication, <http://www.bradfordlicensing.com/documents/pets-fact-sheet.pdf>, <http://www.uswardogs.org/how-to-honor-the-military-dogs-who-serve-our-nation/>, <https://share.america.gov/service-dogs-save-lives/>, and <https://thebark.com/content/surprising-cause-death-police-dogs>.

applied to less than 0.28 percent of imported dogs. Assuming the number of permits for dogs imported for resale purposes under the AWA increases apace, such numbers would still represent a small fraction of the dogs entering the United States each year.

Number of Dogs Denied Importation

With regard to the number of live dogs that were denied importation because of a failure to meet Federal requirements, CDC and CBP denied entry of 317 dogs in 2018, 704 dogs in 2017, and 466 dogs in 2016. Although the AWA does not provide the Secretary of Agriculture authority to deny entry to dogs that fail to meet its import requirements, the USDA has declined to issue permits for a variety of reasons, such as a failure to provide adequate documentation, the withdrawal of an importation permit application, or the expiration of an incomplete application (177 permits in 2018, 9 permits in 2017, and an unknown number in 2016, as that information was not tracked until 2017).

Recommendations

In accordance with the Agriculture Improvement Act of 2018, the USDA consulted with the Departments of Commerce, HHS and Homeland Security in the preparation of this report. The agencies discussed options for recommendations, as well as potential improvements to promote importer compliance with the Federal requirements and inter-agency collaboration and information sharing. For example, CBP recommended that CDC and USDA should consider innovating dog import procedures, such as a streamlined electronic permit or “e-permit” process for dog imports so that importers would submit data electronically for each partnering government agency prior to or at the time of arrival. This would provide CBP, CDC, and USDA with data needed to make a determination on admissibility and/or enforce other import requirements. The procedure would result in a process that correlates the permits issued with the port inspection and data records to enhance data quality and reporting.

As noted above, no single Federal agency has the responsibility for regulating the import of dogs into the United States. Based on available data, it appears, between 2006 and 2018, there has been a significant increase in the number of dogs imported into the United States.²⁴ However, under the 2008 amendment to the AWA, it is estimated that USDA presently regulates less than 0.28 percent of the estimated 1.06 million dogs imported into the United States. There is no statutory provision that generally requires, for example, an import permit for a dog an individual acquires outside the United States and imports for personal use as a pet, for pet dogs that leave the United States and later return, for dogs that organizations (or other entities) acquire outside the United States and import for distribution (including adoption) within the United States where there is no exchange of “*de minimis* compensation,” or for dogs that may present pest or disease risks other than those related to human or livestock health (such as distemper, canine Influenza, leishmaniasis, and other pests and diseases that cause significant mortality and morbidity in dogs). In addition, CDC recently published guidance for importers broadening its exemption from the rabies vaccination certificate requirements to include countries with a low prevalence of canine rabies virus variant, even if they report some instances of terrestrial or other rabies virus variants. As a result, 75 percent of all imported dogs are not subject to CDC’s rabies certificate requirements.²⁵

With regard to recommended modifications to Federal law, the USDA respectfully recommends amending the AWA to clarify its authority to deny the entry of dogs into the United States that fail to comply with the importation of live dogs provision. This modification would enable the USDA to better ensure that imported

²⁴ See footnote 20.

²⁵ <https://www.federalregister.gov/documents/2019/01/31/2019-00506/guidance-regarding-agency-interpretation-of-rabies-free-as-it-relates-to-the-importation-of-dogs>.

dogs intended for resale are in compliance with the law and clarify the handling of noncompliant shipments of dogs at United States ports of entry. State animal and public health officials, the American Veterinary Medical Association, and the public have recommended that there be one Federal agency to oversee and set requirements for the importation of dogs. This recommendation may better help importers understand and comply with the Federal requirements and provide a more reliable method for tracking the number of dogs imported into the United States, but may not be feasible given the specific, purpose-based authority granted to Federal agencies and their respective areas of expertise.

There has been suggestion of amending the AHPA to incorporate a provision to regulate the importation of live dogs. To make this change, Congress would have to expand the jurisdictional scope of the AHPA beyond its current focus on pests and diseases of livestock, pursuant to which USDA has already established restrictions on the importation of certain dogs from screwworm- and tapeworm-affected regions. Concerns have been expressed that such an expansion may detract from the purposes of the AHPA and protecting American agriculture.

If further statutory or regulatory action is considered, it is important to define the unresolved concerns involving dogs imported into the United States to ensure the solution is narrowly tailored and reasonably designed to resolve such concerns and achieve the Congressional purposes.

Conclusion

This report recommends an amendment to the AWA to clarify the USDA's authority to deny the entry of dogs into the United States that fail to comply with the importation of live dogs provision. This modification would enable the USDA to better ensure that imported dogs intended for resale are in compliance with the law. Even with this change, however, it is estimated that the AWA's import requirements would apply to less than 0.28 percent of the estimated number of dogs imported into the United States each year. If further statutory or regulatory action is considered, it is important to define the unresolved concerns involving dogs imported into the United States to ensure the solution is narrowly tailored and reasonably designed to resolve such concerns and achieve the Congressional purposes.