



Obama Administration 2011 Report Card on Animal Protection

Overall Grade: C-minus

White House	
Positive	Agency Transparency – President Obama issued a Presidential Memorandum mandating that regulatory agencies make public information regarding their administrative compliance and enforcement actions accessible and searchable online. This initiative also requires agencies to post information on centralized information platforms to allow cross-agency comparisons.
Mixed	Whaling – Although the administration decided not to apply trade sanctions against Iceland for commercial whaling in defiance of the International Whaling Commission ban, President Obama did put forward other measures designed to force Iceland to stop its whaling practices.
Negative	Snakes – For nine months, the Office of Management and Budget has prevented finalization of the USFWS’s rule listing nine species of large constrictor snakes as injurious under the Lacey Act. The rule would curb the pet trade in these snakes, because they pose serious public safety risks and jeopardize endangered species and ecosystems.
Negative	Horse Slaughter – Signed an agriculture spending bill that cleared the way for horse slaughter plants to open in the U.S.

U.S. Department of Agriculture	
Positive	Horse Slaughter – Finalized a rule closing a loophole that allowed the horse slaughter industry to escape oversight and transport horses in inhumane conditions, including in dangerous double-decker trailers.
Positive	Horse Protection Act (HPA) Enforcement – Added 15 veterinarians to help with the inspection of horses under the Horse Protection Act.
Positive	Horse Protection Act Prosecution – In response to a criminal investigation conducted by USDA’s Office of Inspector General, the US Department of Justice indicted three individuals for violations of the HPA. All three individuals pled guilty on charges including horse soring, falsifying documents, and conspiracy. The defendants face prison sentences and fines; sentencing has been set for February 2012. In another case, an Alabama man was sentenced to two years probation after pleading guilty to a violation of the HPA, and the USDA OIG said that it will continue to aggressively pursue violators of the HPA.

U.S. Department of Agriculture	
Positive	Animal Care's New Database – Created a new searchable database of information on entities regulated under the Animal Welfare Act. This came about, in part, as a result of a lawsuit settlement agreement between USDA and The HSUS concerning access to animal research records.
Positive	Animal Welfare Act and Horse Protection Act Funding – Requested significant increases in funding for FY12 in the President's budget, which set the stage for Congress to follow through in the appropriations process with an almost 20 percent increase in Animal Care funding and an almost 40 percent jump in Horse Protection Act enforcement funds (the first substantial increase ever in appropriations above the Horse Protection Act's 1976 authorizing cap). Also, USDA sought permission (subsequently granted by Congress) to reprogram \$4 million in the FY11 budget to further support Animal Welfare Act enforcement against problematic dog dealers.
Mixed	Downer Calves – Responded to The HSUS's petition by tentatively approving a new rule to protect downed calves from slaughter abuse. Once finalized, the new rule is expected to close the regulatory loophole allowing the slaughter of calves too sick to walk, instead requiring that they be promptly and humanely euthanized. However, this proposed rule has yet to be issued.
Mixed	Imported Puppies – Issued a proposed rule to implement the 2008 amendments to the Animal Welfare Act prohibiting the importation of sick young puppies from foreign puppy mills. The long-awaited proposed rule requires that imported puppies be in good health, have received all necessary vaccinations and be at least six months of age, consistent with the law's specifications, but the agency needs to adequately train port personnel to ensure that violators are not able to circumvent this law.
Mixed	Puppy Mill Direct Sales Rule – After the USDA Office of Inspector General recommended in May 2010 that large scale breeders who sell retail, including over the Internet, should be regulated, the agency began to initiate the rulemaking process but the proposed rule to cover these breeders has yet to be released.
Mixed	Agricultural Subsidies – The \$40 million of federal meat subsidies this year represents a misguided subsidy that encourages overproduction by industrial-scale animal agriculture operations tied to cruelty. The total federal meat subsidies in 2011, however, are the lowest of the annual bonus purchases for this administration. This is a 44 percent reduction in bonus purchases from 2010, in which \$72 million was allocated for the purchase of beef, dark meat chicken, and lamb, and a 75 percent reduction from 2009, in which \$167 million was allocated.

U.S. Department of Agriculture

Negative	NMA v. Harris – Supported the National Meat Association (NMA) in an unprecedented Supreme Court case involving a California anti-cruelty statute. The Obama administration supported NMA’s argument that the California law is preempted by the Federal Meat Inspection Act. In this case, the Obama administration not only demonstrated that it has no problem with the fact that tens of thousands of pigs show up at slaughterhouses so injured, weak and sickened that they cannot walk, but also demonstrated that it thinks state laws protecting such animals should be overridden so that immobilized pigs can be forced to slaughter.
Negative	Lethal Predator Control – Continued the use of lethal methods by Wildlife Services, an agency program that kills wildlife as a subsidy for private ranchers and other special interests, and has failed to shift the focus of its resources to nonlethal alternatives. The HSUS requested that Wildlife Services eliminate the use of two highly toxic and indiscriminate poisons, Compound 1080 and sodium cyanide, which kill hundreds of non-target wild and domestic animals every year, including family pets. These poisons are used to kill more than 13,000 animals a year, yet only 0.3 percent of the animals killed by Wildlife Services are killed by these toxicants, indicating how minor these poisons are to Wildlife Services’ program.

U.S. Department of the Interior

Positive	Chimpanzee Split-Listing – Announced that The HSUS’s joint petition with other organizations including the Jane Goodall Institute and the Association of Zoos and Aquariums, to upgrade captive chimpanzees from threatened to endangered status (status that chimpanzees in the wild already have) under the Endangered Species Act, may be warranted. USFWS initiated a formal status review of chimpanzees and is soliciting public comments.
Positive	Conservation Funding – Announced both new and increased funding programs directed toward species and habitat conservation. Through educational programs, community outreach, land acquisition, and conservation planning, USFWS allocated more than \$53 million toward various conservation initiatives of state agencies and non-governmental organizations.
Positive	Wolves on Alaska’s Unimak Island – Rejected a proposed state plan to kill seven wolves on Unimak Island in Alaska’s Maritime National Wildlife Refuge; the state alleged that this action was necessary to protect caribou. In 2010, USFWS stated that it was legally required to perform an environmental assessment of the state’s plan under the National Environmental Policy Act. The state challenged this assertion, arguing that the caribou herd needed more immediate help; a federal judge sided with USFWS.

U.S. Department of the Interior

Positive	White-Nose Syndrome in Bats – Issued a national management plan to combat white-nose syndrome, a disease that affects North American bats. The disease, which has been documented in 19 states, has a 70-90 percent mortality rate and has resulted in the death of over 1 million bats in the northeastern United States, including nearly 90 percent of bats in New York caves where White-Nose Syndrome was present.
Positive	Endangered Species Listings – Announced a work plan to address the backlog of ESA listing determinations for 251 species over the next six years. Additionally, USFWS and NMFS issued final rules designating 40 species as threatened or endangered and initiated status reviews for over 400 species. That represents a 42 percent increase in the number of listing actions from 2010, when 28 final rules were issued. The species affected by these actions include Preble’s jumping mouse, loggerhead turtles, gopher tortoises, and the Miami blue butterfly.
Positive	Polar Bear Listing and Protection – In response to lawsuits filed by sport-hunting associations, the Department defended its decisions to list polar bears as a threatened species under the ESA and prohibit import of polar bear trophies from Canada. The HSUS joined in the agency’s defense of polar bears, and a federal court upheld both the listing and trophy import decisions.
Positive	Wild Horses Rescued from Slaughter – Took action to impound 47 wild horses presumed to be bound for a slaughter plant in Mexico. The horses were seized in Utah and are being held at a BLM facility in Utah pending an FBI investigation.
Mixed	Elimination of Captive-Bred Antelope Exemption – Responding to a federal court order, USFWS proposed a rule eliminating the blanket exemption for otherwise prohibited activities involving certain captive-bred antelopes listed as endangered. If this rule is finalized, “canned hunting” of these species will be subject to greater federal regulation and oversight, but may still be permitted for these species and other threatened and endangered species on a case-by-case basis pursuant to individual permits.
Mixed	Elimination of Captive-Bred Generic Tiger Exemption – Proposed a rule to remove generic tigers from the list of species that are exempt from registration under the captive-bred wildlife regulations. If this rule is finalized, facilities engaging in otherwise prohibited activities with captive tigers will have to annually report information about their tiger inventories, promoting transparency. The HSUS is concerned, however, with how USFWS will regulate captive tigers after the exemption is removed, such as issuing permits that could undermine conservation.

U.S. Department of the Interior

Negative	Wild Horses – Announced proposed management strategy reforms, including increasing the number of mares treated with immunocontraceptive fertility control, improving care and handling procedures to ensure humane treatment, and improving transparency with increased public viewing opportunities. However, the number of horses intended for removal is too high, far exceeding the number the agency expects to be able to adopt out, and not enough horses will be treated with fertility control. Rounded up more than 10,000 horses in FY 2011 despite pledge to reduce roundups.
Negative	Gray Wolves – Issued a final rule in May delisting the Northern Rocky Mountain Distinct Population Segment of gray wolves (this includes wolves in ID, MT, UT, WA, and OR) in response to a budget rider attached to a FY 2011 appropriations bill. This rider directed the agency to reissue the final rule initially published by USFWS on April 2, 2009, which had been challenged in court and subsequently vacated. In December, USFWS issued a final rule to delist the Western Great Lakes Distinct Population Segment of gray wolves.
Negative	Bison – Failed the bison in Yellowstone National Park by relinquishing responsibility to the states when bison leave the park simply to find sufficient food sources in the winter. The agency has not seriously addressed habitat, population control and ecosystem management options to ensure the survival of this culturally and historically significant animal species.

U.S. Department of Commerce

Positive	False Killer Whales – Issued proposed rules to modify commercial fishing gear and impose fishery closures in substantial areas around Hawaii in order to reduce hooking-related deaths of this species, proposed for ESA listing (Hawaiian false killer whales).
Positive	Illegal Killing of Marine Mammals – In coordination with the NOAA/NMFS Office of Law Enforcement, The HSUS offers rewards in cases where marine mammals have been illegally killed. The most recent example of this new enforcement incentive program was a case involving a pilot whale found in NJ who died of infection and starvation as a result of a gunshot wound.
Positive	Shark Finning – Advocated for stronger protection measures to ban the cruel and unsustainable practice of shark finning at Regional Fisheries Management Organizations including at meetings of the Inter-American Tropical Tuna Commission (IATTC), the International Commission for the Conservation of Atlantic Tunas (ICCAT), and the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR).

U.S. Department of Commerce

Negative	Sea Lion Killing – Authorized the States of Oregon and Washington in May to kill up to 85 sea lions per year at Bonneville Dam for eating salmon in the Columbia River, despite the fact that the agency’s prior authorization of such killing was rejected by a federal court in a lawsuit filed by The HSUS. In July, NMFS withdrew its authorization after The HSUS filed a second lawsuit against the agency. However, NMFS is currently going through a rulemaking process to attempt a third authorization of Bonneville Dam sea lion killing.
Negative	Endangered Whale Protection – The HSUS filed suit in October against NMFS for failing to take steps necessary to ensure that continued operation of four federal fisheries will not be likely to jeopardize the continued existence of critically endangered North Atlantic right whales and endangered humpback whales, and for continuing to authorize the operation of these fisheries even though the agency acknowledges that they cause the unlawful take of endangered marine mammals.
Negative	Porbeagle Sharks – Denied two HSUS petitions to legally protect the dwindling population of porbeagle sharks, under both the ESA and the Magnuson-Stevens Fishery Conservation and Management Act. The HSUS is currently challenging these denials in federal court.
Negative	Other Shark Protection Regulations – Failed to issue regulations for the number of smooth dogfish sharks that can be caught, a growing fishery in the Atlantic and the only fishery granted an exemption by Congress from the fins-attached policy mandated in the 2010 Shark Conservation Act. Only banned the take of oceanic whitetip sharks caught in association with certain fisheries in the Atlantic instead of banning the take of all oceanic whitetip sharks caught in the Atlantic. Allowed a dramatic increase in quota for critically endangered thorny skates that can be caught in the Atlantic.
Negative	Sea Lion Captivity – Issued a permit to a Mississippi facility that will allow it to take into captivity and rehabilitate young, stranded sea lions. However, instead of mandating wild release, these rehabilitated animals will become the property of this facility for its use in public entertainment and captive breeding programs.

U.S. Department of Health and Human Services

Positive	Animal-Free Testing Protocol – The FDA approved a new procedure that avoids using animals in testing batches of Botox. The new method is expected to reduce use of animals in Botox testing by 95 percent within three years.
Positive	Use of Chimpanzees in Research – Clarified that there is a policy within the FDA <i>not</i> to request data from chimpanzee studies.

U.S. Department of Health and Human Services

Positive	The National Institutes of Health (NIH) notified its grants recipients that as of 2015, the use of NIH grant funds to acquire dogs from Class B random-source dealers will be prohibited, and it advised its grantees to identify new sources for such animals. This plan is in accordance with the recommendations of the Institute for Laboratory Animal Research (ILAR) report <i>Scientific and Humane Issues in the Use of Random Source Dogs and Cats in Research (2009)</i> .
Mixed	Chimpanzee Contract – In 2010, NIH planned to move more than 200 chimpanzees from a holding facility in New Mexico to an active research laboratory in Texas. Following a major public outcry and at the urging of three Senators, NIH publicly stated that the Institute of Medicine (IOM) would conduct a study on whether chimpanzee research is necessary and would not move the chimpanzees until the IOM study was completed. Despite this and prior to the conclusion of the IOM study, NIH approved a 5-year \$19 million dollar contract to the Texas research laboratory for the New Mexico chimpanzees. On Dec. 15, 2011, the IOM did release its report, which indicated that chimpanzee research is largely unnecessary and that specific criteria should be applied prior to any future chimpanzee use. NIH immediately adopted the IOM recommendations, has halted funding of new chimpanzee studies, and will be conducting a review of current chimpanzee studies, which would include the Texas laboratory grant.
Negative	Use of Antibiotics in Livestock Feed – The FDA rejected a petition to ban non-therapeutic uses of antibiotics in livestock feed and the agency withdrew its longstanding proposals to remove approvals for two classes of antibiotics, penicillins and tetracyclines, for use in livestock feed.
Negative	Chimpanzee Breeding Petition – In March, The HSUS petitioned the HHS and the Department of Justice requesting an investigation and enforcement action to halt potential government fraud at The New Iberia Research Center (NIRC), the country’s largest chimpanzee research facility. NIRC has been receiving federal funds from NIH on the condition that it will not breed federally-owned or supported chimpanzees, but the laboratory’s records, released to The HSUS under public records laws, show that NIRC may be violating this provision. NIRC has also publicly admitted to the breeding. Despite growing public concern over invasive chimpanzee research, neither agency has formally responded yet to HSUS’ petition.

U.S. Department of Homeland Security

Positive	North Atlantic Right Whales – Responded to our request by immediately moving its risk-prone training exercises, involving high speed boats and firing of live ammunition in the vicinity of right whale mothers and newborns in their only calving ground off the coast of Florida, into river areas for the duration of the calving season (November 2010-March 2011). Also committed to river-only exercises for the 2011-2012 calving season and initiated the consultation process under Section 7 of the ESA.
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U.S. Department of Defense

Positive	Animal Nerve-Gas Testing – Agreed to phase out use of nerve-gas testing on primates. After pressure from animal advocates and a member of Congress, the Army has committed to discontinuing its primate research in favor of trained actors, computer programs, and high-tech simulators.
Negative	Marine Mammal Habitat – Issued a proposed rule allowing the U.S. Navy to authorize the use of low-frequency active sonar in a large percentage of the world’s oceans without excluding areas previously identified as important marine mammal habitat. The HSUS has submitted comments expressing its concerns.

U.S. Environmental Protection Agency

Positive	CAFOs – Made a positive step by re-establishing concentrated animal feeding operations (CAFOs), agricultural operations where large numbers of animals are confined and fed for industrial production, as a national enforcement priority. This is important to protect human and ecosystem health by preventing animal waste from contaminating surface and ground waters, including harming wildlife, fish and other aquatic species.
Mixed	Animal Testing – Efforts to minimize duplicative animal testing in the Endocrine Disruptor Screening Program (EDSP) was minimal and will only modestly impact the number of animals used. The agency has also been working with the NIH on developing a series of rapid, inexpensive non-animal tests for chemical activity, some of which test for endocrine-related activities. In December, EPA released its plan for incorporating these tests into the EDSP. Initially, the non-animal tests will be used to prioritize chemicals for further testing and the impact on animal use will be modest—for those chemicals that are of lowest priority may not be tested. However, EPA’s eventual plan is to transition to a completely non-animal battery within 5 years, which would have a substantial impact on the number of animals used in the EDSP.

U.S. Environmental Protection Agency

Negative Air Pollution – Failed to respond to a legal petition submitted by The HSUS and a coalition of environmental and public health organizations submitted in 2009 requesting the agency to list CAFOs as sources of air pollution under the Clean Air Act, or to a petition submitted by The HSUS along with the Environmental Integrity Project and a coalition of environmental and public health organizations this year to list ammonia, a hazardous air pollutant often emitted from CAFOs, as a criteria pollutant under the Clean Air Act.

Negative Hazardous Chemicals – Chose not to act in responding to a 2010 court ordered remand of a 2008 exemption issued by the agency to CAFOs under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Emergency Planning and Community Right-To-Know Act (EPCRA).

U.S. Securities and Exchange Commission

Positive Cage-Free Eggs Shareholder Resolution – Issued a ruling against Bob Evans Farms requiring the company to allow its shareholders to vote on a proposal submitted by The HSUS encouraging the company to begin phasing in cage-free eggs.

U.S. Trade Representative

Positive Trans Pacific Partnership Agreement (TPP) – Proposed language for the environment chapter of the TPP that includes a wide array of conservation issues for the first time ever in a U.S. trade agreement; language includes provisions seeking disciplinary actions on illegal trade in wildlife and plant products and illegal logging, as well as provisions on fisheries subsidies and shark conservation.

Positive Defense of the U.S. Dolphin-Safe Label – Vigorously defended the U.S. Dolphin Safe Label from a challenge by Mexico at the World Trade Organization. The U.S. won on some issues and lost on others; the deadline for appeal is January 2012.