A 'HARE' RAISING LAPSE IN MEAT INDUSTRY REGULATION: HOW REGULATORY REFORM WILL PULL THE MEAT RABBIT OUT FROM WELFARE NEGLECT

By
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Rabbits are most commonly perceived as soft, fuzzy, tender, loving, active household pets. However, rabbit meat is growing in popularity among urban farmers, foodies, and chefs alike. The pet rabbit industry is subject to a variety of laws and regulations intended to ensure the humane and proper treatment of these beloved pets. Yet, 'meat rabbits,' which are often the same breed or species as pet rabbits, are often not covered by either the protections that govern the treatment of animals used for meat or the protections that govern the treatment of rabbits as pets or companion animals. The lack of laws and regulations applicable to the meat rabbit industry has led to widely documented inhumane treatment and animal abuse. Such beloved companions deserve the benefits of increased government oversight of rabbit meat production. This Article proposes that, on the federal level, the United States Department of Agriculture inspection of commercial rabbit producers and processors should be mandatory rather than voluntary. States must also play a central role because, given the nature of the rabbit meat industry, it is especially important that any new standards reach small farms and urban farmers, in addition to commercial producers. This Article proposes that state standards use puppy mill laws as guidance, given rabbits' societal status as companion animals. New laws governing the raising of meat rabbits should establish standards for light and ventilation, requirements for environmental enrichment, limits on breeding, and floor space minimums for cages. Such changes will ensure that the rabbit's more typical role as a companion animal is acknowledged, while providing the necessary protection from abuse and mistreatment when rabbits are raised for meat consumption.

* © Taylor Budnick 2015. A 2015 J.D. graduate from Michigan State University College of Law, Taylor was the Animal Law Articles Editor for the *Journal of Animal and Natural Resource Law*. This Article is dedicated to her house rabbit, Dora, whose adoption from a backyard rabbit producer is what inspired her to write about this particular rabbit welfare issue.

I. INTRODUCTION

The worst sin towards our fellow creatures is not to hate them, but to be indifferent to them.

—George Bernard Shaw, *The Devil's Disciple*[1]

In 2011, the population of pet rabbits living in the United States (U.S.) was estimated to be more than three million.[2] Although the population of pet rabbits has fluctuated over the years,[3] there continues to be robust interest in keeping them as pets, which suggests that the rabbit's companion animal status is here to stay.[4] Yet despite societal understanding that eating pet animals is taboo,[5] in 2003, over eight million domestic rabbits were slaughtered nationwide for human consumption.[6] Despite the rabbit's status as a companion animal, its popularity as a menu item is on the rise.[7] It is imperative to address the

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[1] GEORGE BERNARD SHAW, THE DEVIL'S DISCIPLE 35 (Penguin ed., Penguin Books 1975) (1900).

[2] AM. VETERINARY MED. ASS'N, U.S. PET OWNERSHIP & DEMOGRAPHICS SOURCEBOOK 47–48 (2012).

[3] *Id.*

[4] *Id.*

[5] Jesse Rhodes, *Rabbit: The Other "Other White Meat"*, SMITHSONIAN, http://www.smithsonianmag.com/arts-culture/rabbit-the-other-other-white-meat-165087427/ [http://perma.cc/CX29-WDQ9] (Apr. 22, 2011) (accessed Jan. 19, 2015).

[6] SUSAN E. DAVIS & MARGO DEMELLO, STORIES RABBITS TELL: A NATURAL AND CULTURAL HISTORY OF A MISUNDERSTOOD CREATURE 231 (2003).

[7] Phil Vettel, *Rabbit Hopping onto U.S. Menus*, CHICAGO TRIBUNE, http://articles.chicagotribune.com/2013-02-21/entertainment/ct-dining-0221-rabbit-20130221_1_rabbit-meat-executive-chef-prairie-grass-cafe [http://perma.cc/R9GV-8M6C] (Feb. 21, 2013) (accessed Jan. 21, 2015).

unique welfare issues facing the meat rabbit while the industry and demand for rabbit meat remain relatively small. Doing so would avoid the implementation issues and backlash that are almost certain to accompany the overhaul of a large-scale industry's standards and may also help facilitate future regulatory efforts.

This Article will discuss the plight of the meat rabbit, arguing that the welfare issues of rabbits that are raised for meat production are exacerbated because these rabbits are afforded neither the minimal protections granted to other meat animals, such as pigs and cattle, nor the protections bestowed upon their fellow companion animals. First, this Article will provide a brief overview of the rabbit meat industry and the applicable regulatory framework, followed by a discussion of the rabbit's prevailing status as a companion animal in the U.S. Second, this Article will focus on the consequences of regulatory disregard, on both the state and federal level, which cause meat rabbits to be subject to inhumane conditions for the duration of their brief lives. This Article proposes that, in order to alleviate the unnecessary suffering inflicted upon meat rabbits, adequate measures must be taken to ensure increased government oversight of rabbit producers, including rabbit meat industry reforms aimed at bridging the welfare gap between companion and meat rabbits.

II. OVERVIEW OF THE RABBIT MEAT INDUSTRY AND APPLICABLE LEGAL CONTEXT

A. *Overview of the Rabbit Meat Industry*

U.S. rabbit producers come in many forms, ranging from commercial breeders and processors operating large-scale 'rabbitries,'[8] to novice backyard farmers. Of the millions of rabbits slaughtered annually for meat, the most popular breeds are the New Zealand White and the California Rabbit.[9] There are an estimated 200,000 rabbit producers in the U.S.,[10] but the value of the industry is still "fairly inconsequential" when compared to the value of other major livestock industries.[11] Based on a 2002 U.S. Department of Agriculture (USDA) Animal Plant Health Inspection Service U.S. Rabbit Industry Profile—the most recent analysis of its kind—the value of rabbit slaughter by commercial processing plants in 2000 was between $16 and $20 million, and the

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[8] ROBERT SCHAEFFER ET AL., PA. STATE COLL. OF AGRIC. SCIENCES, AGRICULTURAL ALTERNATIVES: RABBIT PRODUCTION 1–2 (2008) (available at http://pubs.cas.psu.edu/FreePubs/pdfs/ua274.pdf (accessed Jan. 22, 2015)) ("The rabbitry should be an enclosed building that has proper ventilation, lighting, heating, and cooling systems.").

[9] ANIMAL AND PLANT HEALTH INSPECTION SERV., U.S. DEP'T OF AGRIC., U.S. RABBIT INDUSTRY PROFILE 5 (June 2002) (available at http://www.aphis.usda.gov/animal_health/emergingissues/downloads/RabbitReport1.pdf [http://perma.cc/764J-BYGT] (accessed Jan. 19, 2015)) [hereinafter RABBIT INDUSTRY PROFILE].

[10] Paulette Lincoln-Baker, *The Plight of the Meat Rabbit*, 115 AV MAG. 18, 19 (Winter 2007).

[11] RABBIT INDUSTRY PROFILE, *supra* note 9, at 25.

value of farmed rabbit meat was between $7 and $8 million, compared to the $41 billion total value for the cattle industry.[12] Perhaps because of the relatively low value of the rabbit meat industry, hobby breeders, including the 'backyard farmer' type, account for 85%–90% of rabbit breeders, substantially outnumbering the large-scale commercial breeders.[13] Interestingly, an American Rabbit Breeders Association survey indicated that 66.5% of breeders raise rabbits for the pet market, and 86.5% raise rabbits for meat.[14] Such a high degree of overlap is not found in any other industry.[15] The overlap also highlights the impracticality of allowing rabbit producers to categorize meat rabbits as an identifiable and distinct class, and thus outside the reaches of state and federal regulation.[16]

B. Applicable Federal Law

Federal protection of domestic animals is limited to the Animal Welfare Act (AWA),[17] the Federal Meat Inspection Act (FMIA),[18] the Poultry Products Inspection Act (PPIA),[19] the Twenty-Eight Hour Law,[20] the Humane Methods of Slaughter Act (HMSA),[21] the Federal Food, Drug, and Cosmetic Act (FDCA),[22] and the FDA Food Safety Modernization Act (FSMA).[23] Whether these federal laws constitute effective protections of the animals to which they apply is irrelevant to this discussion, because the welfare of rabbits raised for meat is almost entirely without federal statutory consideration and is excluded from such protections.

By its terms, the AWA applies to "any live or dead dog, cat, monkey . . . guinea pig, hamster, [or] *rabbit*" that "is being used, or in-

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12 *Id.* at ii.

13 *Id.*

14 DAVIS & DEMELLO, *supra* note 6, at 226.

15 *Id.*

16 David J. Wolfson, *Beyond the Law: Agribusiness and the Systemic Abuse of Animals Raised for Food or Food Production*, 2 ANIMAL L. 123, 125 (1996).

17 Animal Welfare Act, 7 U.S.C. §§ 2131–2159 (2006) (establishing standards for proper and humane transport of animals).

18 Federal Meat Inspection Act, 21 U.S.C. §§ 601–695 (2012) (establishing inspection scheme to ensure safety and quality of meat produced in the U.S.).

19 Poultry Products Inspection Act, 21 U.S.C. § 451–472 (2012) (establishing standards for the processing and distribution of poultry products).

20 Twenty-Eight Hour Law, 49 U.S.C. § 80502 (2000) (establishing that animals in transport may not be confined for more than twenty-eight hours without unloading for food, water, and rest).

21 Humane Methods of Livestock Slaughter Act, 7 U.S.C. §§ 1901–1907 (2006) (establishing standards for humane slaughter of animals, exemption for ritual purposes, and treatment of nonambulatory animals).

22 Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 301–399f (2012) (overseeing safety of food, drugs, and cosmetics, including proper labeling of meat products).

23 FDA Food Safety Modernization Act, 21 U.S.C. §§ 2201–2252 (2012) (establishing two-year review program of food product safety and regulation of disease in food production).

tended for use, for research, testing, experimentation . . . or as a pet."[24] However, the Act expressly excludes farm animals "used or intended for use as food or fiber . . . ."[25] Thus, despite the fact that the AWA affords protection to pet rabbits and rabbits used in laboratory research,[26] the *same* breeds of rabbits that are raised and sold for their meat are wholly unprotected by the statute. The meat rabbit's exclusion from the AWA is illogical. Presumably, when a minimum welfare standard is articulated and applied to a certain breed or species because legislators recognize that the members of such breed or species constitute a pet or a companion animal, this articulated welfare standard should be the universal standard for all members of that breed or species. The exclusion of domestic rabbits from welfare concerns only when they are bred, raised, or sold for their meat is akin to abandoning one's concern for the welfare of a Golden Retriever simply because someone decides to raise it as a food animal instead of as a companion animal.

While the meat rabbit's exclusion from the AWA is unsettling, it is not the only regulatory oversight contributing to the meat rabbit's plight. Mandatory federal inspection of rabbit meat is not required under either the FMIA or the Poultry Products Inspection Act,[27] though voluntary inspection of rabbit products is handled under the Agricultural Marketing Act.[28] Currently, voluntary inspection is conducted as a fee-for-service program and usually occurs at just a handful of processing plants nationally.[29] In fact, the "[t]otal rabbit slaughter/consumption is estimated to be between 20 and 25 percent larger"[30] than the numbers reported at USDA-inspected facilities. In addition to allowing commercial producers to operate essentially unregulated, hobby breeders account for 85%–90% of all rabbit breeders and are generally excluded from USDA monitoring entirely.[31]

Along the same lines, the Twenty-Eight Hour Law only minimally addresses the welfare of meat animals by requiring that a vehicle

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24 7 U.S.C. § 2132(g).

25 *Id.*; *see also* Wolfson, *supra* note 16, at 125 ("The Animal Welfare Act does not apply to animals raised for food and food production.").

26 7 U.S.C. § 2132(g).

27 *See Inspection & Grading of Meat and Poultry: What are the Differences?*, FOOD SAFETY & INSPECTION SERVICE, U.S. DEP'T OF AGRIC., http://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/production-and-inspection/inspection-and-grading-of-meat-and-poultry-what-are-the-differences_/inspection-and-grading-differences [http://perma.cc/XCQ2-BS4S] (updated June 3, 2014) (accessed Feb. 2, 2015) [hereinafter *Inspection & Grading of Meat and Poultry*] (stating that "[v]oluntary Federal inspection for animals not covered under mandatory inspection (i.e., buffalo, rabbit, reindeer, elk, deer, antelope) is handled under the Agricultural Marketing Act").

28 9 C.F.R. § 354 (2015); *Inspection & Grading of Meat and Poultry*, *supra* note 27.

29 RABBIT INDUSTRY PROFILE, *supra* note 9, at 7.

30 *Id.* at 8.

31 *Husbandry Guidelines & Standards for Show Rabbits*, RABBIT EDUC. SOC'Y, http://rabbitedsociety.webs.com/Newstandards.pdf [http://perma.cc/76GY-YP26] (2009) (accessed Feb. 21, 2015).

transporting animals to slaughter stop every twenty-eight hours to unload the animals for "feeding, water, and rest."[32] The Humane Methods of Slaughter Act requires the humane slaughter and handling of animals slaughtered in USDA-inspected slaughter plants, including "cattle, calves, horses, mules, sheep, swine, and other livestock."[33] However, the USDA excludes rabbits from the definition of livestock[34] so the provisions of the HMSA are not applicable to rabbits. The Federal Food, Drug, and Cosmetic Act's purpose is to ensure that products are safe for human consumption, rather than to ensure the safety of animals involved in testing or food production.[35] Finally, the FDA Food Safety Modernization Act exempts the majority of meat rabbit producers who do not operate on a large enough scale to qualify for all of the FSMA requirements.[36] In January 2013, the Food and Drug Administration proposed a rule to add new preventative control provisions to the FSMA.[37] However, the rule provides exemptions from the new requirements for certain producers, meaning most rabbit producers will likely be subject to modified requirements, if any, because they do not have over $500,000 in annual sales and also sell the majority of their food within close enough proximity to their facility.[38]

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[32] 49 U.S.C. § 80502.

[33] 7 U.S.C. § 1902; *Humane Methods of Slaughter Act*, U.S. DEP'T OF AGRIC., http://awic.nal.usda.gov/government-and-professional-resources/federal-laws/humane-methods-slaughter-act [http://perma.cc/7YYB-LSD6] (updated Feb. 6, 2015) (accessed May 31, 2015).

[34] The term "other livestock" in § 1902(a) has been interpreted to include goats and equines. *See* 9 CFR §§ 313.15, 313.16; *see generally* Cynthia F. Hodges, *Detailed Discussion of the Humane Methods of Slaughter Act*, ANIMAL LEGAL & HIST. CENTER, https://www.animallaw.info/article/detailed-discussion-humane-methods-slaughter-act [http://perma.cc/65Q6-L75Q] (2010) (accessed Apr. 16, 2015) (explaining the animals currently covered under the HSMA).

[35] 21 U.S.C. § 331 (prohibiting the manufacture, delivery, or receipt of adulterated or misbranded products in interstate commerce); *see Why Do Companies Test Cosmetics or Other Products on Animals?*, AM. PHYSIOLOGICAL SOC'Y, http://www.animalresearchcures.org/testing.htm [http://perma.cc/WR69-W3RP] (accessed Feb. 19, 2015) (explaining that the FDCA was passed in 1938 in response to public outcry following tragic incidents involving untested products).

[36] 21 U.S.C. §§ 2201–2252 (establishing a two-year review program of food product safety and regulation of disease in food production); *Do I Operate a Farm or Facility?*, NAT'L SUSTAINABLE AGRIC. COAL., http://sustainableagriculture.net/fsma/learn-about-the-issues/do-i-operate-a-facility/ [http://perma.cc/DDK8-9ZLS] (updated Oct. 2014) (accessed Feb. 3, 2015) (explaining that small scale facilities, which describes most rabbit meat producers, are not subject to the full force of governmental regulation).

[37] *See* Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls, 78 Fed. Reg. 3504, 3505 (Jan. 16, 2013) (listing rules for good practices). A revised version of the rule was proposed in September 2014, and the period for commenting ended in December 2014. *FMSA Proposed Rule for Preventive Controls for Human Food*, U.S. FOOD & DRUG ADMIN., http://www.fda.gov/Food/GuidanceRegulation/FSMA/ucm334115.htm [http://perma.cc/5SWN-TG46] (accessed Apr. 10, 2015).

[38] Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls, 78 Fed. Reg. at 3505; *see Do I Operate a Farm or Facility*, *supra* note 36 ("These modified requirements apply to . . . facilities that average less than $500,000 in average annual gross sales of all food in a previous three-year period and sell the

Federal protection fails because it does not adequately account for the fact that rabbits are valued both as companion animals and food animals. Rabbits are exempt from the AWA,[39] despite their prevailing status as companion animals, because they can be used for food and food production. The rabbit's alternate use as a food animal is sufficient to exclude rabbits designated as such from the AWA protections. Additionally, the USDA does not classify rabbits as livestock,[40] so rabbit producers are also exempt from the prohibition on inhumane slaughter and the licensing and inspection requirements that characterize the production of other food animals within the meat industry. Overall, the problems that weak federal oversight of rabbit producers and processors cause are twofold: First, the meat rabbit's exclusion from key animal welfare laws renders the welfare of meat rabbits completely unprotected. Second, the meat rabbit's exclusion from key animal welfare laws enables rabbit producers to operate without regard to the licensing and inspection requirements that apply to breeders and producers in other animal industries.

C. Applicable State Law

Because federal law is essentially silent in regards to the treatment of rabbits raised for food and food production, it is left to individual states to decide whether to address the welfare of meat rabbits.[41] As of 2010, twenty-seven states have enacted humane slaughter statutes, which are enforced through on-site inspections.[42] Generally, if rabbits are slaughtered for sale in commercial establishments such as restaurants or grocery stores, "they must be processed in a manner that meets local or state health codes."[43] Additionally, there is usually no state licensing requirement "for the production of rabbits for meat as long as the zoning requirements are not violated."[44] Compliance with zoning requirements is often relatively simple: because rabbits

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majority of their food directly to consumers or restaurants or retailers within the same state or within a 275-mile radius.").

39 7 U.S.C. § 2132(g).

40 9 CFR §§ 313.15, 313.16.

41 *See Rabbit Meat*, HUMANE SOC'Y OF THE U.S., http://www.humanesociety.org/issues/confinement_farm/facts/rabbit_meat.html [http://perma.cc/6B9R-8N9H] (May 19, 2011) (accessed Feb. 21, 2015) (describing the lack of federal protections for meat rabbits and noting that many states also fail to protect rabbits from inhumane slaughter practices).

42 *Humane Slaughter Update Comparing State and Federal Enforcement of Humane Slaughter Laws*, ANIMAL WELFARE INST., https://awionline.org/sites/default/files/uploads/legacy-uploads/documents/10_HumaneSlaughterReport_singlepage-1285863342-document-25011.pdf [http://perma.cc/5KZ8-TB2B] (Sept. 2010) (accessed Feb. 12, 2015) (describing enforcement of state and federal slaughterhouses and listing the twenty-seven states that engage in inspection of slaughterhouses under state law).

43 *Rabbit Production*, MSUCARES.COM, http://msucares.com/livestock/small_animal/slaughter.html [http://perma.cc/M388-FTYF] (updated Aug. 21, 2014) (accessed Feb. 6, 2015).

44 *Frequently Asked Questions*, AM. RABBIT BREEDERS ASS'N, https://www.arba.net/faq.htm [http://perma.cc/AJ66-2TH9] (accessed Feb. 3, 2015).

"are not classified as livestock, [they] are exempted from USDA inspections on slaughter."[45] Accordingly, large-scale producers and backyard farmers alike are able to raise rabbits for meat with minimal regulation. The rabbit's exclusion from most federal and state regulation allows rabbits, when produced for meat, to be treated in a manner that is distinct from other food animals and, importantly, other domestic rabbits.

III. UNIQUE ISSUES CHARACTERIZING THE RABBIT MEAT INDUSTRY

The rabbit meat industry is unique because no other food animal is simultaneously valued as a companion animal while also being subject to increasing consumption as food. Rabbits as food or fiber are less protected from human cruelty, insofar as the penalties are less severe than the penalties for cruelty against rabbits as companions.[46] Arguably this is because companion animals' worth to humans is greater and distinguishable from that of other, nondomesticated or factory-produced animals. A tension exists between human consumption of domestic rabbits and societal principles against consuming pets, and yet meat rabbits have no existing legal protection as either companion animals or meat animals. Continued regulatory indifference to the rabbit meat industry is contrary to the modern human-rabbit relationship, in which the domestic rabbit is better classified as *companion animal* than *food source*. The unique welfare issues facing meat rabbits must be addressed through a heightened regulatory focus on the rabbit meat industry that is consistent with the rabbit's status as a companion animal.

A. The 'Companion Animal' Status of Rabbits

The rabbit was once identified as "one of the last 'pets' to be acknowledged as a worthy animal,"[47] but today the rabbit's popularity as a companion animal is well established. Generally, "domesticated rabbits can live to be ten to twelve years old as house rabbits in a home just like a cat or a dog."[48] Though rabbits have yet to surpass dogs and cats in terms of popularity, "people who love rabbits are a vocal . . .

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[45] J.S. Isaacs with updates by Diane Huntrods, *Rabbits Profile*, AGRIC. MARKETING RESOURCE CENTER, http://www.agmrc.org/commodities__products/livestock/rabbits-profile [http://perma.cc/6GLG-TVQJ] (updated Nov. 2013) (accessed Feb. 3, 2015).

[46] *See generally Animal Cruelty Laws State by State*, STRAY PET ADVOCACY (available at http://www.straypetadvocacy.org/PDF/AnimalCrueltyLaws.pdf [http://perma.cc/C22Y-XN23] (accessed Jan. 23, 2015)) (noting that Illinois, Minnesota, New York, Ohio, Tennessee, and Virginia have more severe penalties for cruelty against companion animals).

[47] DAVIS & DEMELLO, *supra* note 6, at 333.

[48] Connie Andrews, *Rabbit as Meat Makes Me Hopping Mad*, RABBIT ADVOCACY NETWORK, http://www.rabbitadvocacynetwork.org/rabbits-as-meat-makes-me-hopping-mad/ [http://perma.cc/5WTC-LF4Z] (Oct. 15, 2014) (accessed Jan. 16, 2015).

group."[49] First coined in 1985, the term 'house rabbit'[50] has since inspired a number of house rabbit blogs,[51] a thriving social media presence,[52] and weekend-long, regional house rabbit conventions.[53] Since its formation in 1998, the House Rabbit Society (HRS) "has developed into a national organization with thirty-two chapters in twenty-two states."[54] Most importantly, the "millions of house rabbits who live inside homes in the USA and worldwide includ[e] many former 'meat rabbits' and so-called 'meat rabbit breeds.'"[55]

Over time, the nation's perception of rabbits has shifted, and the traditional notion of rabbits as passive hutch-bound creatures has been replaced with a more modern understanding of rabbits as both capable, and better suited, to household life. According to the House Rabbit Society, rabbits are the third most popular companion animal behind cats and dogs.[56]According to USDA data compiled for the year 2000, the $612 million that Americans spend annually on companion rabbit supplies substantially outweighs the mere $7 million to $8 million value of the meat rabbit market as well as the $16 million to $20 million value of commercial rabbit meat retail sales.[57] Moreover, in response to Whole Foods' decision to start selling rabbit meat, a recent survey polled "3,000 households . . . and [found that] 88% of respon-

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49 DAVIS & DEMELLO, *supra* note 6, at 346–47.

50 *Id.* at 346.

51 *See, e.g.*, Sharon Stiteler & Bill Stiteler, DISAPPROVING RABBITS, http://www.disapprovingrabbits.com/ [http://perma.cc/7HQE-V87Z] (accessed Jan. 16, 2015) (blog postings with pictures of house rabbits humorously "disapproving" of various human activities and artifacts); A HOUSEFUL OF RABBITS, http://houseofrabbits.blogspot.com/ [http://perma.cc/6TXG-FY73] (accessed Jan. 16, 2015) (blog postings about the lives of five house rabbits and a cat).

52 Websta.me Search Results for #bunniesofinstagram, WEBSTA.ME, http://websta.me/tag/bunniesofinstagram [http://perma.cc/LH2M-9Z9D] (Jan. 20, 2015, 7:30 PM) (accessed Jan. 20, 2015); Websta.me Search Results for #bunniesworldwide, WEBSTA.ME, http://websta.me/tag/bunniesworldwide [http://perma.cc/P63E-P4PG] (Jan. 20, 2015, 7:32 PM) (accessed Jan. 20, 2015); Eddy & Rambo Bunny (posting as TheBunny Mama), TWITTER, http://twitter.com/thebunnymama [http://perma.cc/7NL2-SNHT] (Jan. 20, 2015, 7:35 PM) (accessed Jan. 20, 2015).

53 Ohio House Rabbit Rescue, *2015 Midwest Bunfest*, MIDWEST BUNFEST, http://www.midwestbunfest.org/ [http://perma.cc/8V65-723W] (accessed Jan. 16 2015) ("The house bunnies are gathering . . . gathering once again for a festival of fluff, a holy hare day, a spectacular celebration of the miracle that is *BUNNY*.") (emphasis in original).

54 DAVIS & DEMELLO, *supra* note 6, at 85–86; *see also House Rabbit Society Chapters*, HOUSE RABBIT SOC'Y, http://rabbit.org/house-rabbit-society-chapters/ [http://perma.cc/4GMW-UVZG] (updated Oct. 16, 2014) (accessed Feb. 6, 2015) (stating that as of Oct. 16, 2014: "House Rabbit Society has educators in 37 US states plus the District of Columbia, chapters in 21 states, plus an additional three international chapters and educators in eight non-US countries.").

55 Andrews, *supra* note 48.

56 Letter from Anne Martin, Exec. Dir., House Rabbit Soc'y, to John Mackey, Chief Exec. Officer, Whole Foods (June 25, 2014) (available at http://richmondstandard.com/2014/06/richmonds-house-rabbit-society-calls-boycott-whole-foods-selling-rabbit-meat/ [http://perma.cc/LMD2-39YU] (accessed Jan. 16, 2015)).

57 RABBIT INDUSTRY PROFILE, *supra* note 9, at ii.

dents said they will no longer shop at a store that sells rabbit meat."[58] The economic disparities between the pet and meat markets for rabbits show that human interest in rabbits is more focused on rabbits as companion animals and less on rabbits as food items.

Differences between past and present goals of rabbit research and veterinary study further support that the human-rabbit relationship has undergone a significant transition, primarily within the last few decades.[59] For example, in the past "[a]ll the research on rabbits focused on how to 'grow' them, short term, for the market;"[60] in contrast, the modern human-rabbit relationship focuses on rabbits as companion animals, creating a demand for advances in veterinary medicine.[61] In 1997, HRS organized its first national veterinary conference focused on companion rabbits.[62] Since then, the promotion of rabbit medicine has continued to grow and more veterinarians have a comprehensive understanding of rabbit-specific strategies to facilitate a long, healthful life.[63] Veterinarians know the "safe ways to spay and neuter rabbits,"[64] which, in addition to eliminating unwanted reproduction, provides health benefits such as "reduc[ing] the risk of uterine cancer, aggressiveness, and territorial marking behavior."[65] Veterinary advances have "revolutionized treatment of common problems like gastrointestinal stasis, dental disease, abscesses, and nutritional imbalances,"[66] so that the current lifespan of domestic rabbits is akin to that of most dogs; rabbits today can live to thirteen years of age, whereas thirty years ago rabbits "were expected to live only a few

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58 *What Do People Really Think of Whole Foods' Decision to Carry Rabbit Meat?*, RABBIT ADVOCACY NETWORK, http://www.rabbitadvocacynetwork.org/what-do-people-really-think-of-whole-foods-decision-to-carry-rabbit-meat/ [http://perma.cc/HC5Q-PTEJ] (Dec. 8, 2014) (accessed Jan. 16, 2015).

59 *See* Keith Gold, *Advances in Rabbit Care in the Past 20 Years*, 5 HOUSE RABBIT J. (Spring 2010) (available at http://rabbit.org/advances-in-rabbit-care-in-the-past-twenty-years/ [http://perma.cc/XE3A-5HMA] (Jun. 10, 2012) (accessed Feb. 3, 2015)) (noting the House Rabbit Society is "responsible for getting rabbits out of the backyard and into the house and becoming an integral part of the family").

60 DAVIS & DEMELLO, *supra* note 6, at 86.

61 Gold, *supra* note 59.

62 *House Rabbit Society Veterinary Conference*, HOUSE RABBIT SOC'Y, http://www.rabbit.org/hrs-info/vet-conference/original-brochure.html [http://perma.cc/C3T9-E9R9] (accessed Feb. 25, 2015).

63 *See* Marinell Harriman, *Keeping Bunnies in the Pink*, 3 HOUSE RABBIT J. (Summer 1997) (available at http://rabbit.org/keeping-bunnies-in-the-pink-hrs-sponsors-a-very-special-health-conference/ [http://perma.cc/XF8M-62Y8] (Jan. 16, 2013) (accessed Feb. 3, 2015)) ("One of the greatest demands on our national and local volunteers is for health-care guidance and veterinary referrals. . . . No information was provided for furriers or meat producers, nor for anyone promoting rabbits for any use other than the one we purport—as cherished companions and family members.").

64 DAVIS & DEMELLO, *supra* note 6, at 86.

65 *Id.*

66 Gold, *supra* note 59.

years at best."[67] Because "veterinarians and organizations have improved rabbit medicine so significantly . . . rabbits are [now] the third most common mammal to seek veterinary services."[68] Longer life spans, combined with an increasing number of rabbits being kept in a household setting, has allowed human observation of rabbit intelligence, behavior, and needs to flourish.[69]

The monetary value of the rabbit pet supply industry and the significant recent advances in rabbit-specific veterinary medicine are the likely outcome of rabbits' growing popularity as a companion animal. Human domestication of rabbits stems from rabbits' historic purpose as a food source, and accordingly, "it was the keeping of rabbits as meat animals, rather than as pets, that is the origin of the custom of keeping them confined in small cages."[70] But, as human understanding of rabbits has evolved, so too has the belief that rabbits are not well suited for confinement. A "rabbit will survive [in a small cage] as long as it is fed, given water, and kept adequately clean, but the rabbit is unable to engage in any of the complex behaviors . . . that are important to its welfare."[71] Accordingly, modern rabbit ownership is typically comprised of keeping "rabbits part-time in cages, [but] letting them out daily to run around, play and . . . get the exercise they can't get in a cage,"[72] forgoing cages altogether and keeping rabbits "in large pens or in just one or two rooms,"[73] or allowing rabbits to "run 'free-range' in the house, just as a dog or cat would."[74] For people with indoor companion rabbits, "it [is] perfectly normal to see a rabbit frolicking on the living room rug, sleeping on the bed, investigating a clothes basket, or searching for crumbs on the kitchen floor."[75] The abandonment of confinement as a preferred housing method has allowed humans to realize that training domesticated rabbits is relatively easy, because rabbits develop hierarchical domestic structures and can be taught commands just as one would teach a dog or cat.[76] For example, rabbits can be trained to use a litter box, and "can readily learn how to walk on a leash."[77]

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67 DAVIS & DEMELLO, *supra* note 6, at 86; *see also* MARIT EMILIE BUSETH & RICHARD SAUNDERS, RABBIT BEHAVIOUR, HEALTH AND CARE 17 (2015) (noting that rabbits can live for eight to thirteen years with proper care and nutrition).

68 Gold, *supra* note 59.

69 *See* Margo DeMello, *Rabbit and Human Coexistence*, 5 HOUSE RABBIT J. (Spring 2013) (available at http://rabbit.org/rabbit-and-human-coexistence/ [http://perma.cc/NXB5-Y8TJ] (Feb. 1, 2013) (accessed Feb. 3, 2015)) (revealing that rabbits flourish in a cage-free, interactive environment, with social contact from other rabbits or species).

70 Sharon L. Crowell-Davis, *Understanding Rabbit Behavior and Preventing and Treating Behavior Problems*, 102 VETERINARY MED. 104, 107 (2007).

71 *Id.*

72 DAVIS & DEMELLO, *supra* note 6, at 87.

73 *Id.*

74 *Id.*

75 *Id.*

76 *Id.*

77 Crowell-Davis, *supra* note 70, at 107.

The reality that "[r]abbits are not just pretty, mellow critters with a fluffy tail but creatures with specific needs and individual personalities"[78] follows naturally from the realization that rabbit welfare is contingent upon a rabbit's access to adequate space. As society progresses toward a regard for rabbits as primarily companion animals, becoming more in tune with rabbits' demeanor, needs, and desires, humans are subsequently discovering that, at its core, the domestic rabbit is a curious and social prey animal, whose welfare requires outlets to exhibit natural instincts, such as grooming, exercising, digging, chewing, or hiding.[79] These instincts are satisfied in a number of creative ways, including: "[P]roviding a box lined with carpet where [rabbits] can dig to [their] heart's content[,] . . . . [P]roviding non-toxic or untreated wood chews[,] . . . . [G]iving [them] toys with bells and interesting textures[, and]. . . . [G]iving [rabbits] a box or cat home to run to when [they] feel stressed or frightened."[80]

Increased observation of rabbits has also enabled humans to develop a deeper and more comprehensive understanding of rabbits' needs for environmental stimulation and rabbits' abilities for expression. As active animals that enjoy playing with toys, rabbits often "push toys around with their noses, bat them with forepaws, pick them up in their mouths and carry them around, and toss them."[81] In fact, "without stimulation, most caged rabbits become lethargic and depressed."[82] Furthermore, rabbits are capable of demonstrating a range of sounds or expressions in order to communicate.[83] For instance, "[t]ooth grinding is like a rabbit's purr. A slow crunching expresses contentment; a rapid chattering, so the whiskers wiggle vigorously, expresses irrepressible joy."[84] Conversely, "[l]oud tooth grinding, grunting, or growling is a threat," with the former sometimes serving as an indicator of pain.[85] A "thump [of the foot] is an alarm call, while extreme fright is demonstrated by a loud scream, similar to that of a child."[86] Rabbits are even capable of grieving and mourning, and such suffering is evident in the relationships of bonded companion rabbits; when one of the rabbits dies, the surviving rabbit has been known to die of grief.[87] The preceding examples of commonplace rabbit behavior contradict the perception that domestic rabbits are cognitively distinguishable from traditional companion animals, like cats and dogs.

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78 *Natural Rabbit Behavior*, PETCO, http://www.petco.com/Content/ArticleList/Article/30/21/952/Natural-Rabbit-Behavior.aspx [http://perma.cc/VXG2-XKTA] (accessed Jan. 23, 2015).

79 *See id.* (describing natural rabbit personalities and behaviors).

80 *Id.*

81 Crowell-Davis, *supra* note 70, at 107.

82 DAVIS & DEMELLO, *supra* note 6, at 94.

83 *See id.* at 21–22 (explaining that although rabbits are relatively quiet animals, they may communicate through other means, including sounds and expressions).

84 *Id.* at 81.

85 Crowell-Davis, *supra* note 70, at 108.

86 *Id.*

87 DAVIS & DEMELLO, *supra* note 6, at 107.

Companion rabbits challenge the historical perception of rabbits as boring, passive food animals, and as the human relationship with rabbits continues to evolve, the line that once separated rabbits from traditionally popular pets becomes blurred. Arguably, this is why it is so concerning when "someone chooses to perceive an animal who can learn its name (and many other words), [and] show affection toward humans and bond with them for life" as a food source.[88] Furthermore, the existing paradigm illustrates a contradictory regard for rabbit welfare, punishing the consumption of pet rabbits while enabling the consumption of meat rabbits. The most recent and well-publicized example of this contradictory policy involves a Los Angeles prosecutor's decision to charge "Sons of Anarchy" actor, Dimitri Diatchenko, with "one felony count of cruelty to an animal and criminal threats" for "skinn[ing] and cook[ing] the pet [rabbit] of his former girlfriend," and then eating half of it.[89] If convicted, Diatchenko faces up to four years and eight months in jail.[90] While 'house rabbits' have become common throughout the pet rabbit community, and society recognizes the killing and eating of pet rabbits to be so abhorrent as to warrant jail time, human regard for rabbits in the meat industry remains basically unchanged.

Rabbit producers attempt to justify the humanity of rabbit meat production and processing because such operations "don't kill pets," by asserting that "[t]he rabbits [bred] for meat are very different animals than the ones bred for pets."[91] The truth is, however, that numerous rabbit breeders sell the rabbits they cull from meat herds as pets, and many breeders "slaughter the rabbits they cull from pet herds for meat."[92] As the book *Stories Rabbits Tell* illustrates, "[t]he rabbits are the same in either case. It's the way that people look at them that varies so wildly."[93] In an effort to reconcile principles of ethics with the infliction of suffering, humans want to separate meat rabbits and pet rabbits into distinct groups. Human relationships with companion rabbits are important because they work to shatter the illusion that meat rabbits and pet rabbits are distinguishable.

B. The Rising Popularity of Rabbit Meat

Despite the prevailing status of rabbits as a popular companion animal, rabbit has recently been championed as the "New Super

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88 Andrews, *supra* note 48.

89 Angel Jennings, *Man Eats Ex-Girlfriend's Pet Rabbit, Threatens Her, Prosecutors Say*, L.A. TIMES (Dec. 10, 2014) (available at http://www.latimes.com/local/lanow/la-me-ln-north-hollywood-eats-exlover-pet-rabbit-20141210-story.html [http://perma.cc/2Y4V-652H] (accessed Jan. 16, 2015)).

90 *Id.*

91 DAVIS & DEMELLO, *supra* note 6, at 262–63.

92 *Id.* at 263.

93 *Id.*

Meat,"[94] with Time Magazine even reporting that rabbit meat could "Save the World."[95] With this kind of publicity, it is no wonder that some individuals are eager to hop on the rabbit meat bandwagon. Currently, the U.S. is experiencing a resurgence in the demand for rabbit meat, due in part to "the interest in lower fat diets and healthy eating combined with an ongoing pursuit by chefs and foodies of novel and locally produced foods . . . ."[96] Dr. Steven Lukefahr, an advocate of rabbit farming, also "believes the economy will likely prompt more families to consider raising rabbits."[97] Similarly, Camas Davis, founder of the Portland Meat Collective, has seen individuals turn to rabbit meat "for economic reasons or because they want a sustainable protein—rabbits feed on grass, their manure is a great addition to the vegetable garden and their meat is a healthy protein."[98] The Agricultural Marketing Resource Center has even characterized rabbits as "the urban chickens of the 2010s."[99] Newspaper headlines like "Don't Tell the Kids,"[100] "A Dish That Gets Fuzzy Reception,"[101] and "Are Rabbits Pets or Meat?"[102] candidly address the tension between increasing rabbit meat consumption and the rabbit's status as a companion animal.

When rabbit meat is on the menu, chefs across the U.S. receive complaints ranging from angry e-mails to full-scale boycotts of the restaurants.[103] Even celebrity chef Paula Deen has said "[t]he thought of eating rabbit . . . doesn't appeal to me. . . . In your uppity restaurants, they serve a lot of rabbit. But I just can't help but think of Peter

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94 *See* Karen Pinchin, *Are Rabbits the New Super Meat?*, MODERN FARMER, http://modernfarmer.com/2013/05/are-rabbits-the-new-super-meat/ [http://perma.cc/7JB8-KAWT] (May 29, 2013) (accessed Jan. 18, 2015) (stating that rabbits consume low-energy-cost feed, reproduce rapidly, and yield six times more meat then cows per pound of feed).

95 Hilary Hylton, *How Rabbits Can Save the World (It Ain't Pretty)*, TIME, http://world.time.com/2012/12/14/how-rabbits-can-save-the-world-it-aint-pretty/ [http://perma.cc/A9QQ-EN4M] (Dec. 14, 2012) (accessed Jan. 18, 2015) (stating that rabbits provide a healthy form of protein, give an economical advantage to those farming the animal, and can bolster the food supply of disaster stricken regions).

96 Isaacs, *supra* note 45.

97 Hylton, *supra* note 95.

98 *Id.*

99 Isaacs, *supra* note 45.

100 Kim Severson, *Don't Tell the Kids*, N.Y. TIMES, http://www.nytimes.com/2010/03/03/dining/03rabbit.html [http://perma.cc/5DQB-5ALT] (Mar. 2, 2010) (accessed Jan. 18, 2015).

101 Jane Black, *A Dish that Gets Fuzzy Reception*, WASH. POST, http://www.washingtonpost.com/wp-dyn/content/article/2008/07/22/AR2008072200513.html [http://perma.cc/W6H5-MT3L] (July 23, 2008) (accessed Jan. 18, 2015).

102 *See* Miriam Wasser, *Are Rabbits Pets or Meat?*, THE ATLANTIC, http://www.theatlantic.com/business/archive/2014/08/are-rabbits-pets-or-meat/378757/ [http://perma.cc/QHQ4-9JRV] (Aug. 20, 2014) (accessed Jan. 18, 2015) (discussing opposing attitudes towards rabbit meat protests).

103 *See* Severson, *supra* note 100 (stating customers left the restaurant once they noticed rabbit was on the menu); Black, *supra* note 101 (noting one customer sent an angry e-mail to the chef scolding him for serving rabbit).

[Rabbit]."[104] Restaurants are not the only problem, though, as backyard farmers are also drawn to the notion of raising rabbits for meat. Nonprofit rabbit rescue organization SaveABunny[105] cautions that "[r]aising rabbits for food is not 'green,' it's not eco-friendly. It only adds to animal suffering."[106] Activist groups, like Neighbors Opposed to Backyard Slaughter, similarly recognize that suffering is prevalent throughout the rabbit meat industry, due to local governments leaving "the interests of animals to the whims of the farmer."[107] Such groups "have seen too many instances of cruelty by urban homesteaders to recount, and there is no reason to believe that without regulation, anyone will do anything differently . . . ."[108] Lack of bureaucratic involvement, however, is a benefit for individuals like Davis, whose collective has offered classes on rabbit slaughter and butchering techniques. While the drive to find an inexpensive and sustainable protein is not unreasonable, it has caused an influx of inexperienced rabbit producers into an industry that is already significantly under-regulated, much to the detriment of rabbit welfare.

C. *Regulatory Neglect of the Rabbit Meat Industry*

Billions of animals suffer from human-inflicted cruelty, but the rabbit is unique because it also represents a companion animal in the Western psyche.[109] Furthermore, the rabbit meat industry is especially problematic because there is virtually no federal regulation of meat rabbit welfare, and only a handful of state statutes are applicable to meat rabbits.[110] The rabbit meat industry operates amidst a 'perfect

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104 Eric Spitznagel, *Paula Deen on Thanksgiving, Her Blood Pressure, and the Butter Scene in Last Tango in Paris*, VANITY FAIR, http://www.vanityfair.com/online/oscars/2010/11/paula-deen-on-thanksgiving-her-blood-pressure-and-the-butter-scene-in-last-tango-in-paris [http://perma.cc/582V-EUNZ] (Nov. 24, 2010) (accessed Jan. 18, 2015).

105 *About SaveABunny*, SAVEABUNNY, http://www.saveabunny.org/about [http://perma.cc/579F-UBDP] (Mar. 13, 2007) (accessed Apr. 16, 2015).

106 Carolyn Jones, *21 Malnourished Rabbits Confiscated in Oakland CA*, SFGATE, http://www.sfgate.com/bayarea/article/21-malnourished-rabbits-confiscated-in-Oakland-CA-2366069.php [http://perma.cc/5T6C-UFYP] (June 30, 2011) (accessed Jan. 18, 2015).

107 Jonathan Kauffman, *Is Animal Slaughter on Urban Farms Becoming a Problem? One Group Thinks So*, SF FOODIE BLOG, http://www.sfweekly.com/foodie/2012/02/10/is-animal-slaughter-on-urban-farms-becoming-a-problem-one-group-thinks-so [http://perma.cc/NLM5-ZHPH] (Feb. 10, 2012, 11:00 AM) (accessed Jan. 18, 2015).

108 *Id.*

109 *See* Gayane Torosyan & Brian Lowe, *"Nobody Wants to Eat Them Alive": Ethical Dilemmas and Dual Media Narratives on Domestic Rabbits as Pets and Commodity*, 2012 PROC. OF THE N.Y. STATE COMM. ASS'N 32 (finding a growing perception of rabbits as companion animals deserving of ethical treatment, rescue, and care).

110 *See, e.g.*, GA. CODE ANN. § 26-2-110.1 (Supp. 2013) (humane slaughter requirements apply to rabbits); MISS. CODE. ANN. § 75-35-8 (West Supp. 2014) (same); N.H. REV. STAT. ANN. § 427:33 (2014) (same); *see also* KAN. STAT. ANN. § 47-1402 (2000) (humane slaughter applies to "any other animal" which can be used for meat); MICH. COMP. LAWS § 287.551 (2012) (same); 3 PA. CONS. STAT. ANN. §§ 2362, 2303 (West 2008) (humane slaughter law covers any "animal maintained in captivity").

storm' of commoditization, created by a combination of nearly nonexistent statutory protection of meat rabbits, and a rising popularity of rabbit meat as consumer preferences shift toward locally produced food and sustainable agriculture. While writing the book *Stories Rabbits Tell*, Susan E. Davis and Margo DeMello conducted their own yearlong investigation of the rabbit industry and found that "it combines some of the worst aspects of both intensive production (i.e., an emphasis on production at the expense of animal welfare) and small farming (i.e., lack of legislation or public oversight)."[111] Cases of cruel practices in the rabbit meat industry are likely underreported. While "[a] handful of people have stood up for the rights of chickens, pigs, and cows, [which are not] particularly cherished," very few have advocated for the rabbit, "despite the fact that the species serves as a storybook hero, cultural icon[,] and beloved pet."[112]

The rabbit meat industry has, thus far, managed to avoid significant public scrutiny largely because it is small in size, few people know about the existence of the industry, and the suffering of rabbits is eclipsed by the well-publicized abuse of mainstream food animals. In the U.S., human consumption of beef, chicken, or pork, substantially outweighs human consumption of rabbit meat,[113] and contributes to societal unawareness of the rabbit meat industry's existence because the industry plays no role in most individuals' daily lives. While some organizations such as the Humane Society of the U.S. and Woodstock Farm Animal Sanctuary have publicized the conditions of the rabbit meat industry,[114] few people are likely to avail themselves of this information. The industry's cruel practices continue to be mostly "hidden from public consciousness."[115] Interestingly, the reason behind the lack of advocacy for rabbit welfare in the meat industry is not that meat rabbits are treated humanely; rather, it is the small size of the rabbit meat industry that makes the meat rabbits' cause somehow less worthy. When asked to explain the historic lack of investigation into the rabbit meat industry, "[b]oth advocates for farm animal welfare and breeders [stated] that no one has investigated . . . because it is so

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111 DAVIS & DEMELLO, *supra* note 6, at 241.

112 *Id.* at 262.

113 *See* RABBIT INDUSTRY PROFILE, *supra* note 9, at 8 (calculating that in 2000, total slaughter was between 1.9 and 2.3 million rabbits in the U.S.); *Farm Animal Statistics: Slaughter Totals*, HUMANE SOC'Y OF THE U.S., http://www.humanesociety.org/news/resources/research/stats_slaughter_totals.html [http://perma.cc/HWE5-6HTM] (updated Sept. 15, 2014) (accessed Jan. 24, 2015) (compiling data showing that in the U.S., cattle are slaughtered annually in the tens of millions, and chicken in the billions).

114 *Rabbit Meat*, *supra* note 41; *Rabbits for Meat*, WOODSTOCK FARM ANIMAL SANCTUARY, http://woodstocksanctuary.org/learn-3/factory-farmed-animals/rabbits-for-meat/ [http://perma.cc/QA2G-5ENF] (accessed Jan. 24, 2015); *see also New Undercover Investigation Reveals Cruelty inside Rabbit Farms Linked to the UK*, ANIMAL EQUALITY, http://www.animalequality.net/news/623/new-undercover-investigation-reveals-cruelty-inside-rabbit-farms-linked-uk [http://perma.cc/X7Y8-LTH8] (May 23, 2014) (accessed Jan. 24, 2015) (exposing the horrible conditions endured by meat rabbits in Spain).

115 DAVIS & DEMELLO, *supra* note 6, at 241.

small."[116] Small in relation to the beef industry, perhaps, but surely not small to the millions of rabbits that "are slaughtered here each year" or the "800 million [rabbits] slaughtered around the world annually."[117] Animal welfare advocates cannot allow the relatively small size of the rabbit meat industry to be dispositive, because as previously discussed, the rabbit is not an ordinary food animal and due weight should be given to the nature of the rabbit meat industry as one which involves the human consumption of an identified companion animal. Regardless of its size, the rabbit meat industry promotes the inhumane treatment and human consumption of a companion animal, and therefore stringent government oversight is warranted.

IV. CURRENT INDUSTRY PRACTICES THAT ARE DETRIMENTAL TO RABBIT WELFARE

A consequence of the nonexistent federal regulation of the rabbit meat industry is that the responsibility of ensuring meat rabbit welfare is allocated entirely to state law. An overwhelming majority of states exempt animals used for food and food production from their state anti-cruelty statutes,[118] the result of which is that meat rabbits can suffer in whatever way is consistent with the customary animal husbandry practices of the state in which they reside.[119] Increased government regulation of rabbit producers is necessary to prevent the suffering of countless rabbits that perish in deplorable conditions each year.

A. Current Industry Housing Practices

The current lack of regulation concerning the living conditions of meat rabbits allows producers and processors of rabbit meat to house rabbits in any manner.[120] Housing typically consists of either single-tiered rows of wire battery cages—the kind that poultry farmers use to house egg-laying hens—or, if space is a concern, rows stacked three to four cages high.[121] Manure is collected in pans underneath stacked cages, or in pits below hanging cages.[122] With producers confining

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116 *Id.* at 330.

117 *Id.*

118 *Legal Protections for Farm Animals*, AM. SOC'Y FOR THE PREVENTION OF CRUELTY TO ANIMALS, https://www.aspca.org/fight-cruelty/farm-animal-cruelty/legal-protections-farm-animals [http://perma.cc/JX7H-9Y73] (accessed Jan. 24, 2015); *Farmed Animals and the Law*, ANIMAL LEGAL DEF. FUND, http://aldf.org/resources/advocating-for-animals/farmed-animals-and-the-law/ [http://perma.cc/KWB6-C5GS] (accessed Jan. 24, 2015).

119 *See supra* Part II.C (explaining the paucity of applicable state law).

120 *Rabbit Meat*, *supra* note 41; *Rabbits for Meat*, *supra* note 114.

121 *Husbandry Guidelines & Standards for Show Rabbits*, *supra* note 31; *A Primer on Backyard Meat Rabbit Raising Practices*, RUDOLPH'S RABBIT RANCH & WATERFOWL FARM, http://www.rudolphsrabbitranch.com/rrrpt1.htm [http://perma.cc/546B-DHXD] (updated Mar. 8, 2013) (accessed Jan. 22, 2015).

122 *Husbandry Guidelines & Standards for Show Rabbits*, *supra* note 31.

multiple rabbits to a single cage, floor space for each rabbit is often limited to "a sheet of legal-sized paper."[123] While crowding six rabbits into a single cage seems an impossible feat, some producers elect to take intensive confinement even further, crowding as many as eight to ten rabbits together in a cage. Crossroads Rabbitry, for example, admits to confining eight young rabbits into a single cage of 18" x 24" x 36" dimensions.[124] Such a high degree of intensive confinement affords each rabbit less than one half of one square foot of floor space. The Food and Agriculture Organization, which advocates rabbit as a food source, admits "the stress of cramped quarters, especially in warehouse situations where hundreds or thousands of cages full of rabbits are found, can contribute to ill health, including diarrhea and respiratory illness."[125] Unsurprisingly, the problems that intensive confinement causes are numerous, and also include "spine deformation and mobility issues."[126]

Rabbit producers almost universally prefer to house rabbits in wire bottom cages,[127] because the open bottom allows cages to be cleaned less frequently; the cost for efficiency, however, is the rabbits' freedom from pain and suffering. The condition known as "sore hocks" is attributed to standing for prolonged periods on wire bottom cages, and results in "inflamed, ulcerated areas of [the back of the foot, or ankle]."[128] Over time, wire bottom cages "erode the protective layer of fur on the hock"[129] of a rabbit's foot, causing "chafed or infected hind legs."[130] Wire bottom cages are also responsible for "breaking nails, which can lead to infections."[131] When multiple rabbits are housed in stacked cages, indoors, and with poor ventilation, they are at risk for illnesses stemming from exposure to ammonia.[132] The accumulation of rabbit urine and feces produces ammonia, which increases in environments with poor ventilation and warm temperatures.[133] High levels of ammonia can lead to life-threatening respiratory disease and bacterial

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123 ERIN E. WILLIAMS & MARGO DEMELLO, WHY ANIMALS MATTER: THE CASE FOR ANIMAL PROTECTION 62 (2007).

124 *Profits in Raising Rabbits*, CROSSROADS RABBITRY, http://www.crossroadsrabbitry.com/profits-in-raising-rabbits/ [http://perma.cc/J8FM-YUAW] (accessed Jan. 22, 2015).

125 DAVIS & DEMELLO, *supra* note 6, at 245.

126 WILLIAMS & DEMELLO, *supra* note 123, at 62.

127 *Frequently Asked Questions*, *supra* note 44 ("The most common pen is made of all wire, which is the most sanitary.").

128 *Id.*

129 *Id.*

130 DAVIS & DEMELLO, *supra* note 6, at 244.

131 *Id.*

132 STEVEN D. LUKEFAHR ET AL., RABBIT PRODUCTION 117 (9th ed. 2013) (discussing illnesses related to ammonia exposure).

133 *See id.* (noting that "[a]mmonia is produced by the action of bacteria on the urea excreted in rabbit urine" and is often "involved in [the] transmission and development of" snuffles); Tara G. Ooms et al., *Concentration and Emission of Airborne Contaminants in a Laboratory Animal Facility Housing Rabbits*, 47 No. 2 J. AM. ASS'N LAB ANIMAL SCI. 39, 40 (2008) (explaining that ammonia "is produced from urease positive bacteria in feces and is a powerful irritant of the upper respiratory tract").

infection.[134] Without proper ventilation, the ammonia "fumes have nowhere to go,"[135] allowing "[t]he strong odor of urine [to] irritate the esophagus and lung tissue of rabbits and humans."[136] Rabbits that are confiscated from meat production operations are often found crowded into small wire cages, sometimes stacked on top of one another, and suffering from illnesses caused by the accumulation of their own waste and a lack of veterinary treatment.[137] Deplorable housing conditions are not exclusive to commercial rabbitries, as animal officials have observed equally inhumane treatment of meat rabbits in backyards, apartment buildings, and small-scale breeding operations.[138] When county animal control officials discover meat rabbits living in inhumane conditions, they may not have the legal authority to act soon enough to save the lives of the rabbits.[139]

For example, one high-profile case involved the seizure of twenty-one rabbits from an Oakland, California apartment.[140] The rabbits were being raised for food, and were discovered in cages that "were so small the rabbits were actually stacked upon each other, covering themselves with urine and feces."[141] The accumulation of waste was so severe that "[t]he urine had scalded their skin, potentially causing infections."[142] This seizure highlights the most disconcerting aspect of the rabbit meat industry: the lack of regulation addressing the treatment of meat rabbits. Situations like the Oakland case "blur[ ] the lines for animal cruelty,"[143] and raise questions such as "[w]hen is it OK to raise something for food, and when is it cruelty?"[144]

An Ohio cruelty case also illustrates the problem of inadequate laws addressing the rabbit meat industry. In *Ohio v. Brown*, county Humane Society employees received reports of cruelty, but were le-

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134 *See* Karen Patry, *Ammonia Levels*, RAISING RABBITS, http://www.raising-rabbits.com/ammonia-levels.html [http://perma.cc/QR8J-ZK53] (accessed June 24, 2015) (noting the adverse health effects of exposure to ammonia).

135 *Id.*

136 DAVIS & DEMELLO, *supra* note 6, at 244

137 *See* Mark Hawthorne, *Battery Bunnies*, SATYA, http://www.satyamag.com/nov06/hawthorne.html [http://perma.cc/9UCZ-X42X/] (Nov. 2006) (accessed Jan. 22, 2015) (detailing East Bay Animal Advocates' investigation of a rabbit processing facility that uncovered animals with numerous health problems including diarrhea and urine burns).

138 *See, e.g.*, Ian Elwood, *Hundreds of Bunnies Confiscated after Two Breeders Are Busted*, ANIMAL LEGAL DEF. FUND, http://aldf.org/blog/hundreds-of-bunnies-confiscated-after-two-breeders-are-busted/ [http://perma.cc/EJZ6-42CL] (June 14, 2013) (accessed Feb. 28, 2015) (detailing the deplorable conditions that over 375 rabbits were living in at the home of the vice president of the Indiana State Rabbit Breeders Association).

139 *See, e.g.*, Ohio v. Brown, No. 1999AP090055, 2000 WL 988521, at *3 (Ohio Ct. App. June 28, 2000) (explaining that a county official could only issue a warning upon finding rabbits in "life threatening" conditions).

140 Jones, *supra* note 106.

141 *Id.*

142 *Id.*

143 *Id.*

144 *Id.*

gally unable to respond with effective immediate action.[145] County Humane Society officials "observed rabbit cages stacked three high with no drop pans, resulting in the rabbits in the top cages defecating and urinating on the rabbits in the lower cages."[146] The smell of ammonia was overwhelming, and numerous dead rabbits were seen throughout the barn.[147] The rabbits did not appear to have food or water, and the gravity of the situation prompted a Humane Society employee to consider the situation a matter of life or death for the rabbits.[148] Despite the discovery of life-threatening conditions, the only legal recourse that could immediately be taken upon the initial discovery of inhumane conditions was the issuance of a warning.[149]

The case of Debe Bell is similarly indicative of the cruelty that exists throughout rabbit production operations, along with the flaws that characterize existing legal remedies.[150] Animal control officers discovered over 193 rabbits housed in a shed on Bell's property in Arvada, Colorado.[151] The rabbits were found in conditions that are not uncommon:

> The shed was hot, 84 degrees, with little light and inadequate ventilation. The cages housing the rabbits were urine-soaked, caked in feces, and had little or no food. With few exceptions, they had no water. The animals were dehydrated. Many were severely matted, some with urine and feces matted and caked into their fur.[152]

In defense of thirty-five counts of animal cruelty charges, Bell argued that her care of the rabbits constituted "acceptable animal husbandry practices," and as such that she should not be charged with animal cruelty.[153] Although the jury ultimately rejected Bell's argument that such conduct was within the accepted husbandry practices of Colorado,[154] the fact remains that there is no clear standard of care governing the production of meat rabbits.[155] Individuals like Ms. Bell

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145 *See Brown*, 2000 WL 988521, at *3 ("[A]lthough [the Humane Society officer] felt the conditions were life-threatening . . . she had no way to do anything that day.").

146 *Id.* at *1.

147 *Id.*

148 *Id.* at *1–2.

149 *Id.* at *3.

150 Press Release, Jefferson Cnty. Dist. Attorney's Office, Five Years Probation for Debe Bell's Animal Cruelty Convictions, http://jeffco.us/district-attorney/news/2012/five-years-probation-for-debe-bell%E2%80%99s-animal-cruelty-convictions/ [http://perma.cc/T22L-U4N5] (Mar. 20, 2012) (accessed Jan. 15, 2015).

151 *Id.*

152 *Id.*

153 *See id.* (stating that Bell insisted throughout the proceedings that she ran a livestock operation).

154 *See id.* ("According to Judge Greene, after looking closely at the evidence, the jury determined that Debe Bell's care of the rabbits did not meet the accepted practices."); Colorado v. Bell, No. 12CV1482 (Jefferson Cnty. Dist. Ct. filed June 21, 2013) ("The evidence accepted by the jury does not show that the rabbits were treated within the accepted animal husbandry practice.").

155 *See Rabbit Meat*, *supra* note 41 (noting how protection for rabbits is lacking at both the federal and state levels); *How Whole Foods' Bunnies Are Killed*, HOUSE RABBIT

should not be permitted to justify immense cruelty by arguing that such conduct is acceptable because it conforms to the "acceptable animal husbandry practices" of the state. Furthermore, it is difficult to ascertain where courts should draw the line. Judge Greene listed several influential factors for the jury's finding that Bell's care of the rabbits did not meet accepted practices, but offered no specification as to which factor (temperature, ventilation, cleanliness, sustenance, etc.) and to what degree, each factor was determinative.[156]

B. Current Industry Breeding Practices

The truth behind the well-known phrase 'breeding like rabbits' is considered one distinguishing benefit of the rabbit meat industry. Ironically, however, the majority of rabbits that are raised on commercial rabbitries do not actually 'breed like rabbits.' Instead, rabbit producers manipulate a breeding schedule that is wholly inconsistent with a rabbit's natural breeding behavior, taking advantage of the fact that "as induced ovulators with short gestations, female rabbits can be bred at almost any time, and can produce up to forty kits per year."[157] Commercial rabbitries employ an intensive breeding schedule,[158] often forcing female rabbits to produce as many as six to twelve litters annually.[159] The gestation period for New Zealand White rabbits is thirty-one days,[160] and producers will rebreed female rabbits as early as "one to seven days after [birth] . . . for maximum production" of up to eleven litters per year.[161] Female rabbits that are unable to meet the demands of extreme production are culled, and those that do meet demands typically live for two years "before being killed for home consumption or other meat markets."[162] When considering whether to cull breeding female rabbits, many rabbit producers operate according

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SOC'Y, http://rabbit.org/how-whole-foods-bunnies-are-killed/ [http://perma.cc/Y7P8-SVN8] (July 18, 2014) (accessed Feb. 6, 2015) (noting that rabbits do not need to be stunned before they are slaughtered because they are not classified as livestock).

156 *See* Press Release, Jefferson Cnty. Dist. Attorney's Office, *supra* note 150 (stating that after hearing from experts on both sides, the jury determined that Bell did not meet the required standard).

157 DAVIS & DEMELLO, *supra* note 6, at 232.

158 *See id.* at 255 (noting that there is debate among breeders as to how frequently rabbits can be bred, and that researchers have experimented with "intensive breeding schedules").

159 *See* AM. RABBIT BREEDERS ASS'N, ARBA RECOMMENDATIONS FOR THE CARE OF RABBITS AND CAVIES 4 (available at http://www.arba.net/PDFs/CAW.pdf [http://perma.cc/4Y8K-W7KU] (accessed Jan. 26, 2015)) [hereinafter ARBA RECOMMENDATIONS] (explaining that under an intensive schedule, does may be rebred as early as when kits are two weeks old, and kits can be weaned at four weeks old).

160 ANNE FANATICO & CAMILLE GREEN, NAT'L CTR. FOR APPROPRIATE TECH., SMALL-SCALE SUSTAINABLE RABBIT PRODUCTION 5 (Dec. 2012) (available at http://www.mkwc.org/files/3413/8904/2896/rabbitproduction.pdf [http://perma.cc/U988-MKYH] (accessed Feb. 6, 2015)).

161 *Id.*

162 DAVIS & DEMELLO, *supra* note 6, at 254.

to a 'three strike rule'[163] because, as one producer put it, "if you're looking at making money you have to look at the little things and the big things . . . [m]anage for efficiency."[164]

Unfortunately, the suffering that female rabbits endure when they are subjected to nearly continuous birthing cycles is not the only consequence of such breeding practices. Adherence to a rigorous breeding schedule can lead to malnutrition, which can cause a female rabbit to eat her babies.[165] Furthermore, one requirement for maintaining an intense breeding schedule is the premature separation of the mother from her babies, or kits.[166] In order to facilitate high production rates and maximize profitability, "[c]ommercial meat breeders often wean rabbits at 4-5 weeks of age."[167] The rabbit meat industry practice of separating young rabbits from their mothers at just four weeks of age is a sharp contrast to the pet rabbit industry practice of selling rabbits no sooner than eight weeks of age.[168] According to the U.S. Department of Agriculture's 2002 Rabbit Industry Profile, "[m]ortality when kits are in the preweaning stage can be up to 40 percent."[169] A higher mortality rate is associated with premature weaning because rabbits are rendered more susceptible to respiratory problems, including pneumonia, and to an intestinal illness known as "enteritis."[170] Enteritis "often occurs when baby rabbits are forced to eat solid food before they reach three to four weeks of age."[171] Breeders concede that forced weaning can be quite stressful for the rabbits, yet the practice persists.[172]

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163 *See Making Money with Rabbits*, RISE AND SHINE RABBITRY, http://riseandshinerabbitry.com/2012/05/06/making-money-with-rabbits/ [http://perma.cc/CD46-A4UX] (May 6, 2012) (accessed Jan. 16, 2015) (implying that under the 'three strike rule' a doe should be culled after three unsuccessful chances to produce viable offspring).

164 *Id.*

165 *See* FANATICO & GREEN, NAT'L CTR. FOR APPROPRIATE TECH., *supra* note 160 (noting that "[c]annibalism by the mother is often due to poor nutrition").

166 *See* DAVIS & DEMELLO, *supra* note 6, at 242 (finding that when rabbits are bred for meat, they are often weaned early to facilitate further breeding).

167 *Husbandry Guidelines & Standards for Show Rabbits*, *supra* note 31.

168 *See id.* (explaining that it is typical for meat breeders to wean rabbits at four to five weeks, while it is typical for pet breeders to sell rabbits at eight weeks, although some wean two weeks earlier at six weeks).

169 RABBIT INDUSTRY PROFILE, *supra* note 9.

170 *See* Lincoln-Baker, *supra* note 10, at 19 (noting that respiratory problems may develop and that enteritis may occur as a result of eating solid food); DAVIS & DEMELLO, *supra* note 6, at 242 (quoting the website of a rabbitry in Saskatchewan that notes the occurrence of pneumonia).

171 *See* Lincoln-Baker, *supra* note 10, at 19 (discussing health issues that may arise as a result of premature weaning).

172 *See* DAVIS & DEMELLO, *supra* note 6, at 242 (discussing the impacts of early weaning on young rabbits).

C. *Current Industry Slaughter Practices*

Rabbits are not included under the Humane Methods of Livestock Slaughter Act (HMSA),[173] and, as a result of this omission, can be slaughtered without regard to whether the chosen method is humane. Young rabbits, called "fryers," are typically kept alive for nine to ten weeks until reaching market weight of four to six pounds, at which point they are ready for slaughter.[174] In order to "facilitate butchering," breeders may deny fryers access to food anywhere from twenty-four to forty-eight hours before slaughter.[175] Following this period of starvation, breeders slaughter fryers on the farm or sell the live rabbits to rabbit meat processing plants.[176]

Rabbits are excluded from the HMSA requirement for the stunning of livestock animals prior to slaughter,[177] and although some producers attempt to stun rabbits through cervical dislocation, the process is not always effective.[178] Cervical dislocation is known as the 'twist and crunch' method, and "entails holding the back legs up and, with the dominant hand, quickly pulling the neck down while firmly tilting the head up, dislocating the skull from the spine."[179] The American Veterinary Medical Association (AVMA) does not identify cervical dislocation as a humane method for slaughtering rabbits that weigh over 2.2 pounds, yet the slaughter weight of fryers is typically 4.5 to 5.5 pounds.[180] It is harder to break the necks of larger rabbits in the right place, and "'[i]f the neck is broken too low the rabbit will be paralyzed, but very conscious of what's happening.'"[181] Furthermore, "even when dislocation is performed correctly, the rabbits will remain conscious for about thirteen seconds after the neck is broken."[182] Accordingly, some people prefer to "slit the throat right after hanging [the rabbit by its

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173 7 U.S.C. § 1902.

174 *See* Lincoln-Baker, *supra* note 10, at 19 (noting that fryers "live nine to 10 weeks . . . until they reach 'slaughter weight'" and "are marketed at four to six pounds").

175 *See A Primer on Backyard Meat Rabbit Raising Practices*, *supra* note 121 ("To facilitate butchering, feed should be withheld from the animal for 24 hours prior to slaughter . . . some people choose to withhold feed for 48 hours.").

176 *Rabbit Meat*, *supra* note 41.

177 7 U.S.C. § 1902.

178 *Rabbit Meat*, *supra* note 41; *see also* AM. VETERINARY MED. ASS'N, AVMA GUIDELINES FOR THE EUTHANASIA OF ANIMALS: 2013 EDITION 38 (available at https://www.avma.org/KB/Policies/Documents/euthanasia.pdf [http://perma.cc/KJ3L-M5LQ] (accessed Jan. 18, 2015)) [hereinafter AVMA EUTHANASIA GUIDELINES] (describing cervical dislocation for rabbits).

179 *A Primer on Backyard Meat Rabbit Raising Practices*, *supra* note 121.

180 DAVIS & DEMELLO, *supra* note 6, at 249; *see also* AVMA EUTHANASIA GUIDELINES, *supra* note 178, at 38 (recommending cervical dislocation for "immature rabbits" and noting that "[f]or heavy rats and rabbits, the large muscle mass in the cervical region makes manual cervical dislocation physically more difficult").

181 DAVIS & DEMELLO, *supra* note 6, at 250.

182 *Id.*; *see also* AVMA EUTHANASIA GUIDELINES, *supra* note 178, at 38 ("Data suggest that electrical activity in the brain persists for 13 seconds following cervical dislocation in rats.").

back legs] to bleed the animal,"[183] but as the AVMA has reported, "'bleeding [a rabbit] out' . . . does not hasten loss of consciousness."[184] As one processor described, one consequence of cervical dislocation is that rabbits "are often still conscious when you put them up on the chain . . . in a plant that uses cervical dislocation . . . the rabbits will be kicking and screaming while they're hanging on the hooks."[185] Some processors admit that cervical dislocation is inhumane,[186] but they continue to slaughter meat rabbits using this method.

Other slaughter methods, common among small-scale breeders, are less precise and may involve hitting the rabbit "on the back of the head with a bat or similar object"[187] or shooting at the rabbit with a pellet gun.[188] According to the AVMA, "[s]tunning rabbits by hitting their heads is humane . . . 'for neonatal animals with thin craniums,' as long as the people administering the blows are properly trained."[189] The "aesthetic implications" of stunning rabbits with blows to the head include "gushing blood and eyeballs popping out of the skull,"[190] and "[t]he meat along the shoulders may also get bruised, which makes it less marketable."[191]

Alternatively, small-scale breeders often use the "broomstick method," in which a "[a] sturdy broomstick . . . is laid across the rabbit's neck," and its hind legs are pulled straight upward until the neck breaks.[192] Others use "a .22 rifle, which almost all growers agree makes for a short, merciful death."[193] Some breeders decapitate rabbits prior to hanging, but "it has been found that this method is not the most humane because the brain continues to be aware for several seconds after severing."[194] *Stories Rabbits Tell* describes a particularly gruesome instance in which using the blow-to-the-head method went awry: an inexperienced farmer attempted to hit a rabbit over the head with a wooden baseball bat and "'blood immediately poured from its ears and mouth, but it was still kicking,'" and because the rabbit still appeared to be breathing, she "hit it hard again . . . and again . . . and it was STILL kicking and blowing blood bubbles, making little gurgling and gasping sounds" until finally she decided to decapitate the

183 *A Primer on Backyard Meat Rabbit Raising Practices*, *supra* note 121.

184 DAVIS & DEMELLO, *supra* note 6, at 250.

185 *Id.*

186 *Id.*

187 *A Primer on Backyard Meat Rabbit Raising Practices*, *supra* note 121.

188 DAVIS & DEMELLO, *supra* note 6, at 252.

189 *Id.* at 250; *see also* AVMA EUTHANASIA GUIDELINES, *supra* note 178, at 36 ("Manually applied blunt force trauma to the head can be a humane method of euthanasia for neonatal animals with thin craniums if a single sharp blow delivered to the central skull bones with sufficient force can produce immediate depression of the CNS and destruction of brain tissue.").

190 DAVIS & DEMELLO, *supra* note 6, at 250.

191 *Id.* at 250–51.

192 *A Primer on Backyard Meat Rabbit Raising Practices*, *supra* note 121.

193 DAVIS & DEMELLO, *supra* note 6, at 253.

194 *A Primer on Backyard Meat Rabbit Raising Practices*, *supra* note 121.

rabbit.[195] Whatever an individual breeder's preferred method of slaughter, it is clear that countless meat rabbits suffer because the rabbit meat industry currently operates without a uniform standard of care or prohibitions on the use of inhumane slaughter methods.[196]

While it is sufficiently troubling that such a wide variety of 'acceptable' methods exist for slaughtering meat rabbits, the ease with which inexperienced individuals can participate in rabbit slaughter renders the slaughtering of meat rabbits even more disconcerting. Proponents of backyard farming operations readily capitalize on the minimal consideration lawmakers afford to the humane slaughter of meat rabbits. 'Rabbit killing seminars' have become popular across the country with the goal of demonstrating rabbit slaughter techniques to anyone who chooses to sign up.[197] For example, in the *New York Times* article "Don't Tell the Kids," Kim Severson writes about her experience at one such seminar that took place in Brooklyn, New York, "in a parking lot behind Roberta's restaurant."[198] For $100, participants were taught how to raise, kill, and butcher rabbits.[199] Her description of the slaughter process highlights the suffering that rabbits endure in this wholly unregulated industry. Severson recalls that "[t]he idea was to place the rabbit on its belly on straw covered asphalt, press a broomstick across the back of its neck and swiftly yank up the rear legs."[200] Ideally, "it's a quiet and quick end," but unfortunately for the rabbits that are used as guinea pigs during these seminars, slaughter "takes a little skill and a lot of fortitude, which some of the novices [lack]."[201]

Such experiences are unfortunately neither isolated nor unique. Camas Davis, founder of Oregon's Portland Meat Collective, introduced a similar rabbit slaughter and butchery class to the Portland area in 2011.[202] The slaughter process, she admits, leaves some students "a little shaken" because they "are usually killing an animal for the first time, so there's a good amount of adrenaline . . . and unfortunately the first time it doesn't always go perfectly."[203] Slaughter classes are just one example of legally inflicted cruelty that persists

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195 DAVIS & DEMELLO, *supra* note 6, at 253.

196 *See Rabbit Meat*, *supra* note 41 (noting that "few protections exist" because federal inspection is voluntary, the HMSA does not apply to rabbits, and many states have no laws on the humane slaughter of rabbits); *How Whole Foods' Bunnies Are Killed*, *supra* note 155 (noting that because rabbits are exempt from the HMSA, they do not have to be stunned before being slaughtered).

197 *See* Severson, *supra* note 100 (describing a rabbit killing seminar and noting that "seminars were part of a larger East-West rabbit cultural exchange" and referring to a "bicoastal food exchange").

198 *Id.*

199 *Id.*

200 *Id.*

201 *Id.*

202 Pinchin, *supra* note 94.

203 *Id.*

because felony cruelty laws do not cover rabbits used as meat animals and the HMSA excludes rabbits.[204]

Finally, "[b]ecause of the paucity of rabbit slaughtering plants in this country (as of 2002 there were about fifty-five in the entire country), most growers have to ship their rabbits, via truck, long distances to have them processed."[205] Accordingly, "[m]any young rabbits end up traveling many hundreds of miles [to commercial processing plants] before they're slaughtered."[206] Rabbits on their way to slaughter are placed in a cage with as many as "eight other rabbits, and . . . stacked on the bed of a pickup truck or inside a tractor trailer truck with hundreds of other crates, also filled with young, frightened rabbits."[207] For example, one California rabbit processor has rabbits that come from all over California and Oregon to be processed,[208] and a processor in Arizona has rabbits that come from New Mexico and Colorado.[209] Pel-Freez, the largest rabbit processor in the country, gets rabbits from all over the country.[210] Rabbits traveling to processing facilities are often transported "in crates that are only six inches high[,] which isn't even enough room for a young New Zealand to stand on all fours[,] or 11 inches high[,] which isn't enough for a rabbit to keep its head up."[211]

V. REGULATORY REFORM AS A SOLUTION TO WELFARE PROBLEMS IN THE RABBIT MEAT INDUSTRY

If the welfare of meat rabbits is to improve, federal, state, and local governments must adopt rabbit-specific legislation establishing a standard of care for rabbits in the meat industry. Regulatory neglect of the rabbit meat industry has resulted in a welfare gap between rabbits raised for meat versus those raised for other purposes,[212] which is a flawed distinction given the degree to which the pet rabbit and rabbit meat industries overlap.[213] In order to bridge this welfare gap, it is

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204 7 U.S.C. § 1902.

205 DAVIS & DEMELLO, *supra* note 6, at 245–46.

206 *Id.* at 246.

207 *Id.*

208 *Id.*

209 *Id.*

210 *Id.*

211 DAVIS & DEMELLO, *supra* note 6, at 246.

212 *See* RABBIT INDUSTRY PROFILE, *supra* note 9, at 7 (noting the lack of USDA regulation for meat rabbits as a result of a voluntary inspection standard); *see also Husbandry Guidelines & Standards for Show Rabbits*, *supra* note 31 (noting that meat rabbits are commonly weaned at four to five weeks, while pet rabbits are weaned at a minimum of eight weeks). When Whole Foods decided to start selling rabbit meat, they outlined specific welfare standards for their meat rabbits above what is common in the industry in recognition of the unique welfare issues facing meat rabbits. Cathy Siegner, *Whole Foods Sale of Rabbit Meat Sparks Protests Planned This Weekend*, FOOD SAFETY NEWS, http://www.foodsafetynews.com/2014/08/whole-foods-sale-of-rabbit-meat-sparks-planned-protests-this-weekend/#.VXtaRvlVikp [http://perma.cc/ET27-9QGM] (Aug. 15, 2014) (accessed June 12, 2015).

213 *See* RABBIT INDUSTRY PROFILE, *supra* note 9, at 1 (discussing the dual purpose use of rabbits as pets and for meat nationwide).

essential that the rabbit's overwhelming value as a companion animal take precedence over its nominal purpose as a meat animal. Accordingly, rather than simply adjusting the U.S. Department of Agriculture's (USDA) interpretation of "livestock" to include rabbits and render the Federal Meat Inspection Act and the Humane Methods of Livestock Slaughter Act applicable, or revising state laws to mandate more stringent standards of care for food animals generally, rabbit-specific standards directed at breeders and processers of meat rabbits are needed. Rabbits raised for meat should be afforded legal protection from inhumane treatment that is at least comparable to the legal consideration their pet counterparts are afforded. Legislation addressing the treatment of rabbits in the meat industry is long overdue, and short of an outright ban on rabbit meat, the federal government and the states should adopt legislation that place significant burdens on rabbit producers to purge the industry of its current inhumane practices.

Focusing on the importance of federal oversight and state prohibitions on inhumane industry practices, the following section will discuss solutions to the numerous welfare issues that characterize the rabbit meat industry.

A. Proposed Federal Regulation of the Rabbit Meat Industry

Currently, USDA inspection of rabbit processing facilities is conducted on a voluntary service-for-fee basis, and many rabbit processors choose to forgo inspection because "the cost of a voluntary inspection is too high to be profitable."[214] Focus on the small size of the rabbit production industry should not undermine the importance of USDA inspection and licensing of rabbit producers. Requiring rabbit producers and processors to undergo USDA inspection would serve a dual purpose of improving the welfare of meat rabbits while also making it easier for producers to market rabbit meat to the public. To the latter point, "[s]ome processors have noted that a seal of USDA approval might make rabbit meat in general more marketable, because the product would be deemed safer."[215] On the other hand, "[o]ther processors have claimed they'd go out of business if they had to re-tool their facilities to meet the standards,"[216] a claim that suggests that mandatory USDA inspection would naturally filter out a number of processing facilities. Undoubtedly, the first step toward improving the welfare of meat rabbits is to amend current policy to mandate USDA inspection of all commercial rabbit producers. The definition of commercial rabbit producers should include all operations with more than twenty breeding female rabbits at any given time. Likewise, the USDA should conduct inspection of rabbit processing facilities housing more than fifty rabbits at a time on an obligatory basis, as opposed to the

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214 DAVIS & DEMELLO, *supra* note 6, at 239.
215 *Id.*
216 *Id.*

voluntary inspection policy currently in place. Mandatory USDA inspection would serve to assure consumers that the rabbit meat industry operates according to a uniform standard of care.

One benefit of mandating USDA inspection is that it would create a societal expectation for producers and processors to provide consumers with unadulterated meat and meat products, maintain sanitary operating conditions, and keep accurate business records. Since there are no mandated sanitary guidelines for rabbit production facilities, producers and processors are free to allow waste to accumulate despite ammonia fumes having a poisonous effect on both rabbits and humans.[217] In addition to providing a standard of sanitation and cleanliness, mandatory USDA inspection of rabbit producers and processors will help to alleviate the lack of data on the U.S. rabbit meat industry. Although the USDA maintains records for those businesses that require licensing under the Animal Welfare Act, including animals used in research, exhibitions, and the pet trade, many rabbit producers are currently exempt from such licensing, and therefore USDA production records with regard to the size of the rabbit meat industry are mere estimates.[218] In the absence of accurate industry data, it is difficult to imagine how a reformed regulatory regime might achieve its goal of improving the welfare of meat rabbits. Consequently, producers and processors should be required: to maintain adequate recordkeeping on the total number of rabbits in their inventory, the production cycles used and resulting litter totals, the number of rabbits slaughtered or marketed to processors, the number of rabbits sold or processed, profits earned from the sale of rabbits or rabbit meat, and purchaser information. Imposing a universal recordkeeping requirement on rabbit producers and processors will create a more complete record of industry-wide data, the availability of which will allow the government and consumers to hold rabbit producers and processors more accountable for the manner in which they conduct their operations.

Given the limited federal regulation of rabbit breeders, state regulation of the breeding practices of rabbit producers and processors is imperative in order for rabbit welfare to improve. The USDA monitors rabbit breeders who sell rabbits for laboratory use, and commercial breeders who sell rabbits to wholesalers or directly to pet stores are

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217 *See* 21 U.S.C. §§ 608, 610 (only applying to manufacturers of "cattle, sheep, swine, goats, horses, mules, or other equines," and only requiring inspection of such manufacturers by "experts in sanitation"); ROBERT SPENCER, ALA. COOP. EXTENSION SYS., GUIDELINES FOR ENTRY INTO MEAT RABBIT PRODUCTION (Nov. 2011) (available at http://www.aces.edu/pubs/docs/U/UNP-0080/UNP-0080.pdf [http://perma.cc/T2TA-GBTB] (accessed Jan. 22, 2015)) (discussing lung damage to humans and rabbits from ammonia exposure).

218 *See* RABBIT INDUSTRY PROFILE, *supra* note 9, at ii n.1 (noting that because rabbit producers are exempt from certification requirements, reliable domestic rabbit population numbers do not exist).

licensed through the Animal Welfare Act.[219] USDA inspection of commercial rabbit meat producers is currently voluntary,[220] and, furthermore, many farmers who raise meat rabbits would be exempt from USDA inspection because they are classified as hobby breeders and sell their rabbits or rabbit meat directly to consumers.[221] Mandating USDA inspection of commercial producers and processors is therefore only a partial solution to prohibiting the inhumane treatment of meat rabbits.

B. Proposed State Regulation of the Rabbit Meat Industry

Ultimately, states are responsible for prohibiting the use of inhumane practices by all rabbit producers who operate outside the scope of commercial rabbit production. By disposition, rabbits are better suited to the environment of small farms, and do not survive as well in larger commercial operations.[222] As a result, small farming and urban agriculture operations outnumber large-scale, commercial rabbitries.[223] Overcoming the industry preference of small-scale, family farming is arguably the largest obstacle in the way of improving the welfare of meat rabbits. Because state law addressing the rabbit meat industry is virtually non-existent,[224] the humane treatment of an overwhelming majority of the rabbits that are kept and produced for meat is almost entirely dependent on the whim of the farmer.

Currently, there are no state laws that provide sufficient oversight of the rabbit meat industry to have an effectively positive impact on

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219 *Id.* at 3.

220 *Id.* at 7 (explaining that USDA inspection is voluntary because rabbits are not classified as livestock).

221 *See id.* at 3 ("Hobby breeders are not monitored by USDA, unless they sell to wholesalers or receive more than $500 from the sale of their stock per year."); *see also* DAVIS & DEMELLO, *supra* note 6, at 231 (noting that operations subject to inspection sell about 300,000 rabbits for meat annually, while estimates indicate that about 8.5 million rabbits are raised and slaughtered for meat in the U.S. annually).

222 *See* FANATICO & GREEN, NAT'L CTR. FOR APPROPRIATE TECH., *supra* note 160 at 6 (describing traits that make rabbits better suited for a smaller-scale production facility than a larger, industrial one).

223 *See* DAVIS & DEMELLO, *supra* note 6, at 231 ("Most rabbit breeders . . . are . . . small-scale operations, with fewer than one hundred breeding females . . . .").

224 *See generally* Elizabeth R. Rumley, *States' Animal Cruelty Statutes*, NAT'L AGRIC. LAW CENTER, http://nationalaglawcenter.org/state-compilations/animal-cruelty/ [http://perma.cc/MAK6-M27F] (accessed Jan. 25, 2015) [hereinafter Rumley, *Animal Cruelty*] (compiling the statutory text and date of possible expiration of each state's animal cruelty statutes in a clickable U.S. map); Elizabeth R. Rumley, *States' Farm Animal Confinement Statutes*, NAT'L AGRIC. LAW CENTER, http://nationalaglawcenter.org/state-compilations/farm-animal-welfare/ [http://perma.cc/56JM-E9ME] (accessed Jan. 25, 2015) [hereinafter Rumley, *Farm Animal Confinement*] (compiling the statutory text and effective date of each states' farm animal confinement statutes in a clickable U.S. map); Rebecca F. Wisch, *Table of State Humane Slaughter Laws*, ANIMAL LEGAL & HIST. CENTER, https://www.animallaw.info/article/table-state-humane-slaughter-laws [http://perma.cc/4RLF-UGAW] (accessed Jan. 25, 2015) (tabling an overview of state humane slaughter statutes that includes methods of slaughter, exemptions, animals covered, and violation penalties).

the welfare of rabbits.[225] State puppy mill laws can provide guidance for creating effective state laws addressing the problems in the rabbit meat industry. Consideration of state puppy mill laws is relevant because the plight of countless meat rabbits, and especially breeding adult rabbits, is akin to the inhumane conditions that dogs are subjected to in puppy mill operations. Although the rabbit meat industry serves to supply meat, and the puppy mill industry serves to breed pets, a prevalence of high frequency breeding, densely packed cages, unsanitary living conditions, inadequate veterinary care, and the disregard for environmental enrichment characterize both rabbit meat production and puppy mill operations.[226] Currently, thirty states and the District of Columbia have enacted laws that specifically address puppy mills,[227] the substance of which range from license and registration requirements to identifying certain standards of care in regards to cage space, exercise, flooring, cage stacking, veterinary care, and humane euthanasia.[228] According to the American Society for the Prevention of Cruelty to Animals, Pennsylvania's standards of care are the most stringent.[229] For example, Pennsylvania law prohibits breeders to operate without a license and mandates inspection, appropriate recordkeeping, and welfare standards such as: providing dogs with adequate cage space, exercise, temperature, lighting, ventilation, veterinary care, and humane euthanasia.[230]

State laws addressing rabbit production should display similarly stringent standards of care, and should likewise be enforced by the state's Department of Agriculture or a comparable agency. Rabbits

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225 *See generally* Rumley, *Animal Cruelty*, *supra* note 224 (compiling the statutory text and date of possible expiration of each state's animal cruelty statutes in a clickable U.S. map); Rumley, *Farm Animal Confinement*, *supra* note 224 (compiling the statutory text and effective date of each states' farm animal confinement statutes in a clickable U.S. map); Wisch, *supra* note 224 (tabling an overview of state humane slaughter statutes that includes methods of slaughter, exemptions, animals covered, and violation penalties).

226 *See Humane Society Veterinary Medical Association Veterinary Report on Puppy Mills*, HUMANE SOC'Y VETERINARY MED. ASS'N (May 2013) (available at http://www.hsvma.org/assets/pdfs/hsvma_veterinary_report_puppy_mills.pdf [http://perma.cc/GVL3-55R9] (accessed Mar. 1, 2015)) (listing characteristics that typify puppy mill operations); *see, e.g.*, DAVIS & DEMELLO, *supra* note 6, at 232, 242 (describing the use of densely packed cages and high frequency breeding among rabbit producers).

227 *See State Puppy Mill Chart*, AM. SOC'Y FOR THE PREVENTION OF CRUELTY TO ANIMALS (Aug. 20, 2014) (available at http://www.aspca.org/sites/default/files/state-puppy-mill-chart.pdf [http://perma.cc/4RA8-MCB3] (accessed Mar. 1, 2015)) (summarizing state laws regulating large-scale commercial dog breeding operations in every state).

228 *See id.* (charting each of these standards of care).

229 *Laws That Protect Dogs in Puppy Mills*, AM. SOC'Y FOR THE PREVENTION OF CRUELTY TO ANIMALS, http://www.aspca.org/fight-cruelty/puppy-mills/laws-protect-dogs-puppy-mills [http://perma.cc/F7AR-KZNH] (accessed Jan. 26, 2015) (stating that Pennsylvania's regulations on puppy mill operations are the strictest of any state).

230 7 PA. CODE §§ 21.4, 21.23, 21.25-27, 21.30, 21.41-42, 28a.2, 28a.7, 28b.1 (2011) (code sections that provide for animal welfare in commercial kenneling operations, as well as licensing and inspection requirements); 3 PA. STAT ANN. § 459-207 (2014) (providing standards for humane euthanasia).

bred and raised for meat production suffer disproportionately as a result of the severe under-regulation of small farming, so rabbit production laws should be structured to ensure that they apply to small farms. For example, state law should require licenses for all persons who either produce three litters or more annually from a single female rabbit, or possess an excess of fifteen rabbits at any given time for use in connection with the rabbit meat industry. Inspection should be a mandatory condition for the granting of a license, and subsequent inspection should be conducted no less than once every two years at the discretion of local government authority.

1. Proposed Standard for Facilities

State rabbit production laws should establish sanitary and environmental standards that rabbit producers are expected to meet. Producers who do not provide rabbits with adequate ventilation, sunlight, temperature, and cleanliness should not pass inspection. While natural outdoor lighting and light cycles are ideal, standards for producers who are unable to provide rabbits with sufficient natural sunlight should include providing artificial light for rabbits "in a cyclical fashion to mimic natural light/dark cycles."[231] Additionally, standards for producers should include adequate ventilation, either through natural airflow, or through the use of air conditioning or fans when natural airflow is insufficient.[232] Furthermore, standards should also mandate single levels of cages and prohibit stacked rows of cages, because "[s]ingle levels of cages are easier to ventilate and cool than stacked rows of cages."[233] Additionally, single rows of cages will prevent the problem of waste build-up from higher cages impairing the health of rabbits kept in lower cages. Ventilation is essential for both temperature and odor control. Inadequate ventilation can lead to ammonia build-up and subsequently produce illness.[234] Ideal temperatures should be maintained between 55°F and 70°F.[235] In the event of inclement weather, including wind, cold temperatures, or extreme heat, producers must exercise preventative measures for maintaining rabbits' comfort and heath.

2. Proposed Standard for Environmental Enrichment

State laws should also set standards for cage enrichment, and producers should provide rabbits with an enriched environment when the nature of the producers' housing facilities precludes natural opportuni-

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231 ARBA RECOMMENDATIONS, *supra* note 159, at 2.

232 *See id.* (recommending ventilation through air conditioning or fans where necessary).

233 FANATICO & GREEN, NAT'L CTR. FOR APPROPRIATE TECH., *supra* note 160.

234 *See supra* notes 132–136 and accompanying text (discussing the adverse health effects of ammonia exposure); RABBIT INDUSTRY PROFILE, *supra* note 9, at 5–6 (explaining the benefit of single-tiered, as opposed to multi-tiered, cages).

235 ARBA RECOMMENDATIONS, *supra* note 159, at 2.

ties for stimulation. While meat industry-specific data is limited, "[t]he problems of bored or frustrated rabbits gnawing on cage wires, pulling out their fur and biting other rabbits' tails and ears is frequently mentioned in literature on laboratory rabbits, who live in similarly confined conditions."[236] Studies of environmental enrichment in lab rabbits have concluded that "[an] animal's well-being improves with the provision of environmental enrichment."[237] Not unlike humans, rabbits have physiological and behavioral needs, and the ability to have these needs met should not be contingent upon whether a particular rabbit is raised as a companion animal or in a rabbit meat production facility. Rabbits physiological needs include the need to eat, drink, sleep, and have shelter. They also have behavioral needs: they need to "[perform] behavior necessary for the maintenance of a normal physiological and psychological state."[238] The behavioral needs of rabbits include "social behavior, exploration, foraging, grooming, digging, nest building, and seeking shelter."[239] Requiring rabbit meat producers to provide their rabbits with the means to satisfy behaviors that "may be considered essential innate behaviors"[240] is particularly reasonable given other rabbits' companion animal status.

Government regulation that mandates cage enrichment for meat rabbits is necessary in order to improve the welfare of meat rabbits. The nature of the rabbit meat industry is inherently stressful for rabbits, and "[c]age enrichment . . . [is] a way to stimulate hiding, resting, exercising and decreasing the state of stress."[241] Heightened government oversight of the industry that includes setting a more stringent standard of care for rabbit producers is imperative, as it is unlikely that the industry-wide focus on profitability with no consideration of rabbit welfare will change willingly. The industry as it exists today consists of backyard producers who recommend barren cages "with feeders that allow enough feed to be fed at a time without wasting from digging it out or dumping bowls over" and moreover, not to "keep diggers around [because] [t]hose rabbits that dig the feeders and waste food are another money pit to eliminate."[242] By providing rabbits with other outlets to express natural behaviors, mandated cage enrichment will hopefully serve to reduce the number of rabbits that are discarded because of behaviors such as digging at food.

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236 DAVIS & DEMELLO, *supra* note 6, at 243.

237 Vera Baumans, *Environmental Enrichment for Laboratory Rodents and Rabbits: Requirements of Rodents, Rabbits, and Research*, 46 ILAR J. 162, 163 (2005).

238 *Id.*

239 *Id.*

240 *Id.*

241 E.V. Siloto et al., *Temperature and Cage Floor Enrichment Affect the Behavior of Growing Rabbits*, PROC. OF THE 9TH WORLD RABBIT CONG. 1245, 1246 (June 10–13, 2008) (available at http://world-rabbit-science.com/WRSA-Proceedings/Congress-2008-Verona/Papers/W-Siloto.pdf [http://perma.cc/NQ8W-M483] (accessed Jan. 26, 2015)).

242 *Making Money with Rabbits*, *supra* note 163.

Producers should be required to provide all rabbits with suitable enrichment that includes, at a minimum, roughage, hay blocks, chew sticks, and areas for withdrawal and lookout. The American Rabbit Breeders Association (ARBA) cites the use of enriched cages as a solution to a number of problem behaviors.[243] For example, the ARBA recommends that rabbits "who demonstrate stereotypic behavior, such as pacing back and forth; moving of feed and water dishes for no apparent reason; constant chewing at water bottles; pulling at wire; or any other repetitive behavior performed out of habit" would likely benefit from environmental enrichment.[244] Environmental enrichment need not necessarily be elaborate. For example, "toys such as golf balls or metal bells hanging in the cage encourage activity for those animals that require extra stimulation," and PVC pipe can be placed in the enclosure to help with rabbits' natural burrowing instincts.[245] Similarly, studies on the effect of cage floor enrichment on behavioral activities of growing rabbits have shown that enriched cages result in higher incidents of ludic events and exploratory behavior which "possibly reflect a higher degree of welfare." Conversely, studies found that stereotypic behavior increased in non-enriched cages.[246]

3. *Proposed Standard for Breeding*

State laws should establish reproduction standards for meat rabbits, including a prohibition of intensive breeding schedules and premature weaning. The need for state laws limiting the maximum number of litters that a female rabbit produces annually is obvious given the contrast between recommended production rates and production rates actually observed throughout the industry. To illustrate this conflict, the ARBA states that "[t]he maximum amount of litters that the average breeding [female rabbit] will produce in a year is five litters,"[247] but current husbandry practices cite the required production rate as seven to eight litters annually.[248] A licensing requirement for persons who produce more than four litters annually from a single female rabbit should be required because such a breeding schedule qualifies as intensive.[249] With such intensive breeding schedules, kits are weaned at six weeks or earlier and a single female rabbit will deliver

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243 ARBA RECOMMENDATIONS, *supra* note 159, at 2.

244 *Id.*

245 *Id.*

246 *Id.* at 1248. Stereotypic behavior included "[g]nawing the bars of the cage. . . ." *Id.* at 1246.

247 ARBA RECOMMENDATIONS, *supra* note 159, at 4.

248 *See Profits in Raising Rabbits*, *supra* note 124 ("In order for the cost . . . of the meat produced by a rabbitry to be equal to or greater than that spent at the grocery store[,] each doe needs to raise out a minimum of 35 fryers a year. . . . This would be 7 to 8 litters per year.").

249 *See* ARBA RECOMMENDATIONS, *supra* note 159, at 4 (recommending kits be weaned at six to eight weeks and noting that weaning at four weeks would be intensive); *see also* DAVIS & DEMELLO, *supra* note 6, at 255 (noting that breeders have historically experimented with intensive breeding schedules).

thirty or more kits annually with few periods of rest.[250] A licensing requirement for production rates exceeding four litters per year for a single female rabbit is reasonable because the rabbit's health and welfare are often compromised in intensive reproduction situations.[251] Furthermore, the current rabbit meat industry practice of weaning kits at younger than six weeks of age should be prohibited.

4. Proposed Standard for Minimum Cage Sizes

State laws that require farmers to provide an established minimum amount of floor space per rabbit are necessary because, despite the minimum floor space per rabbit that the ARBA, the implementing regulations of the Animal Welfare Act, scientific studies, and numerous rabbit producers recommend,[252] the reality is that many producers and processors continue to confine meat rabbits at substantially higher densities than are healthy.[253] Rabbit meat producers and processors consistently house young rabbits in intensive confinement despite the fact that "[y]oung rabbits need more space since they are more active and perform more rapid locomotion than elders."[254] State legislation mandating minimum cage sizes is necessary to combat this abuse.

State law should require all rabbit producers to house rabbits in such a way that each rabbit is afforded an established minimum amount of floor space depending on the weight of the rabbit and whether the cage houses a female rabbit with a litter. The following dimensions are recommendations based upon the Colorado Code of Regulations Small Animal Breeder Facility Regulations, the ARBA minimum floor space recommendations, the implementing regulations of the Animal Welfare Act dimensions, and the Animal Welfare Approved Rabbit Standards:

- Rabbits weighing less than four pounds should be provided a minimum of three square feet of floor space each;
- Rabbits weighing between four and eight pounds should be provided a minimum of five square feet of floor space each;

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250 *See Profits in Raising Rabbits*, *supra* note 124 ("[E]ach doe needs to raise out a minimum of 35 fryers per year. To attain this goal . . . the litter is weaned at 4 weeks of age.").

251 European Food Safety Auth., *Opinion of the Scientific Panel on Animal Health and Welfare on a Request from the Commission Related to the Impact of the Current Housing and Husbandry Systems on the Health and Welfare of Farmed Domestic Rabbits*, EFSA J. 68, Oct. 2005, at 68; *see* DAVIS & DEMELLO, *supra* note 6, at 254–55 ("[The lives of female rabbits who are kept as breeders] can be just as stressful as those of meat rabbits.").

252 ARBA RECOMMENDATIONS, *supra* note 159; 9 C.F.R. § 3.53 (2014); E. Ebru Onbasilar & Ilyas Onbasilar, *Effect of Cage Density and Sex on Growth, Food Utilization and Some Stress Parameters of Young Rabbits*, 34 SCANDINAVIAN J. OF LAB. ANIMAL SCI. 189 (2007); *Rabbit Standards*, ANIMAL WELFARE APPROVED (2014) (available at http://animalwelfareapproved.org/wp-content/uploads/2014/04/Rabbit-standards-2014-v2.pdf [http://perma.cc/QJ3B-7KE4] (accessed Jan. 22, 2015)).

253 DAVIS & DEMELLO, *supra* note 6, at 242–43.

254 Onbasilar & Onbasilar, *supra* note 252, at 189.

- Rabbits weighing between eight and twelve pounds should be provided with a minimum of six square feet of floor space each;
- Rabbits weighing greater than twelve pounds should be provided a minimum of eight square feet of floor space each;
- Female rabbits with a litter weighing under four pounds should be provided a minimum of four square feet of floor space each;
- Female rabbits with a litter weighing between four and eight pounds should be provided a minimum of six square feet of floor space;
- Female rabbits with a litter weighing between eight and twelve pounds should be provided with a minimum of seven square feet of floor space;
- Female rabbits with a litter weighing greater than twelve pounds should be provided with a minimum of nine square feet of floor space.[255]

Scientific studies and the husbandry standards that producers currently practice support these minimum dimensions. A 2007 study on the effects of cage density on growth, food utilization, and stress parameters of rabbits found that higher densities had an adverse effect on rabbits' development.[256] The study tested New Zealand White rabbits housed at densities of 840 square centimeters of floor space per rabbit, 1400 square centimeters of floor space per rabbit, and 4200 square centimeters of floor space per rabbit.[257] Converted to square feet, these densities amount to less than 1 square foot, 1.5 square feet, and 4.5 square feet of floor space per rabbit, respectively. While there were "no statistically significant differences among groups in initial body weight," rabbits housed at lower densities exhibited higher mean values for total body weight and lower food gain ratios by the end of the study compared with those rabbits housed at a higher cage den-

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[255] *See* COLO. CODE REGS. § 1201-11:12.00 (2014) (recommending 2.5 square feet for rabbits weighing up to 2 pounds, 4 square feet for rabbits weighing up to 4 pounds, 6 square feet for rabbits up to weighing 12 pounds, and 8 square feet for rabbits weighing up to 20 pounds); ARBA RECOMMENDATIONS, *supra* note 159, at 1 (recommending 1.5 square feet for individual rabbits weighing up to 4.4 pounds, 3 square feet for individual rabbits weighing between 4.4 and 8.8 pounds, 4 square feet for individual rabbits weighing between 8.8 and 11.9 pounds, 5 square feet for individual rabbits weighing over 11.9 pounds, 4 square feet for females with litter weighing up to 4.4 pounds, 5 square feet for females with litter weighing between 4.4 and 8.8 pounds, 6 square feet for females with litter weighing between 8.8 and 11.9 pounds, and 7.5 square feet for females with litter weighing over 11.9 pounds); 9 C.F.R. § 3.53 (recommending 1.5 square feet for individual rabbits weighing up to 4.4 pounds, 3 square feet for individual rabbits weighing between 4.4 and 8.8 pounds, 4 square feet for individual rabbits weighing between 8.8 and 11.9 pounds, 5 square feet for individual rabbits weighing over 11.9 pounds, 4 square feet for females with litter weighing up to 4.4 pounds, 5 square feet for females with litter weighing between 4.4 and 8.8 pounds, 6 square feet for females with litter weighing between 8.8 and 11.9 pounds, and 7.5 square feet for females with litter weighing over 11.9 pounds); *Rabbit Standards*, *supra* note 252 (recommending a minimum of 3.25 square feet per adult rabbit and 8.6 square feet per doe with litter).

[256] *See* Onbasilar & Onbasilar, *supra* note 252, at 194 (noting that tests involving one to three rabbits per cage showed higher mean values for total body weight gain and food intake than tests involving five rabbits per cage).

[257] *Id.* at 190.

sity.[258] The reduction in total body weight gain in the group of rabbits kept at the highest density "may be explained by lower food intake and lower physical activity due to the crowding stress[.]"[259] Similarly, the study observed higher plasma corticosterone concentration in the group of rabbits housed at the highest density, and, because plasma corticosterone levels have been found to be a valid indicator for physiological stress, this suggests that rabbits in higher density cages experienced more stress than the rabbits at lower densities.[260]

VI. CONCLUSION

Rabbits' status as companion animals distinguishes them from other meat animals. The rabbit warrants specific regulatory consideration because no other companion animal simultaneously serves as a source of meat. The current legal context improperly prioritizes the rabbit's role as a commodity over the rabbit's more pronounced role as a companion animal by not applying the same protections when the animals are raised for meat. Increased government oversight of rabbit producers, combined with comprehensive regulation of housing facilities and improved standards of care, are essential to improving the welfare of meat rabbits.

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258 *Id.* at 191–92.
259 *Id.* at 194.
260 *Id.*