



Birds and the Animal Welfare Act – What You Should Know

The U.S. Department of Agriculture (USDA) has initiated a rule-making process to promulgate regulations for birds not bred for research under the Animal Welfare Act (AWA).

This means that, for the first time, birds exploited in commercial industries regulated by the AWA, particularly in exhibition and breeding for the pet trade, will be provided species-specific standards of care and treatment

To develop these regulations, the USDA will be requesting input from the public to ensure that both stakeholder needs, and animal welfare are served.

While answers to many questions will not be resolved until after the USDA rulemaking process is concluded, this brief FAQ is intended to provide answers to some questions on what inclusion under the AWA will mean for birds.

What is the Animal Welfare Act (AWA)?

The federal Animal Welfare Act (AWA), enacted in 1966 and amended several times, thereafter, sets minimum standards of care that must be met by entities using animals in research, exhibition, transport, breeding, and the pet trade. AWA implementing regulations offer more specific (but nonetheless minimum) requirements by species of animal, and include details on items such as housing, handling, sanitation, food and water, temperature, transport, and veterinary care. Regulated entities are encouraged to exceed these standards. Some do; others barely comply while others rarely do.

How is the AWA enforced?

AWA enforcement is the responsibility of Animal Care (AC), a program within USDA's Animal and Plant Health Inspection Service. AC personnel perform two major types of inspections: pre-licensing inspections and compliance inspections. They are supposed to document any conditions that do not comply with AWA standards. In addition to routine inspections, AC inspectors follow up on complaints from the public regarding regulated facilities, including reports that facilities are conducting regulated activity without an AWA license or registration (which are reserved for laboratories and commercial transporters).

Will regulations affect birds kept solely as pets in private homes?

No.

Will rescue organizations be subject to AWA regulations?

No.

Will bird breeders and other commercial entities that use birds regulated by the AWA require a license to operate?

Yes. Operators that use birds in commerce will be required to be licensed. However, the threshold at which commercial entities will be required to be licensed and subject to USDA regulation is yet to be determined by the USDA.

Will licensed bird breeders and other commercial venues that use birds regulated by the AWA be subject to inspections?

Yes. These facilities will be subject to routine inspections by Animal Care (AC) Inspectors. AC inspectors may also follow up on complaints received from the public regarding regulated facilities as well as reports that facilities are conducting regulated activity without a valid AWA license or registration.

Will AWA regulations extend protection to birds sold through the internet or in other venues that sell live birds?

If the sale of birds is treated similarly to the sale of other covered animals, then anyone who sells birds sight unseen by the purchaser will have to be licensed, regardless of how many breeding females that person has or how many birds that person sells. Otherwise, “de minimis” rules (exempting certain minimum levels of activity) that apply to other entities may apply, but we won’t know until proposed regulations come out.

Will the regulatory process provide opportunities for the [public to comment](#)?

Yes. During the rulemaking process, the USDA provides public notice that it is seeking input to help develop regulations that support both stakeholder needs and animal welfare. It has already scheduled public “listening sessions” on the bird rulemaking. Further public comment will be possible when it publishes its proposed regulations.

How did birds gain protection under the AWA?

The law itself never excluded birds from the definition of “animal,” but USDA’s regulations excluded birds, rats, and mice. In 2000, a court ruled in favor of the Alternatives Research and Development Foundation in its lawsuit challenging that regulatory definition. However, in 2002, Congress stepped in, and, motivated mainly to prevent regulating the most commonly used animals in science experiments, deleted mice, rats and birds bred for use in research from the AWA definition of “animal.” Birds not bred for use in research retained their new status as “covered.”

The USDA began the rulemaking process to regulate those birds in 2004, but over the course of the next 16 years, it failed to follow through on its duty to protect these animals, despite the fact that the American Anti-Vivisection Society (AAVS) and the Avian Welfare Coalition (AWC) formally submitted species-specific standards for birds that were also endorsed by 28 animal welfare organizations.

In 2018, AAVS and the AWC again sued the USDA in federal court for unreasonable delay. After losing at the trial court level, AAVS and AWC succeed on [appeal](#). As a result, USDA is now subject to a court order to complete the rulemaking to protect birds as required by the AWA. To prevent further delay, the settlement specifies a schedule for the rulemaking process.