



## The Avian Welfare Coalition

“Dedicated to the Welfare and Protection of Captive Birds”

### **Birds and the Animal Welfare Act: The Facts!**

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 accepted written public comments and held a series of 3 Listening Sessions requesting input from the public to ensure that both stakeholder needs, and animal welfare are served. The comments gleaned from those sessions were then evaluated and the USDA subsequently issued a first draft of [regulations](#).

USDA is once again seeking public comments to develop a final rule that will provide species-specific regulations governing the care of birds, particularly those in exhibition, bred for the pet trade, and those birds used in research (if not bred for use in research.) These final regulations will be published in 2023.

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.

### **What Other Animals Are Protected Under the AWA**

The AWA includes provisions for warm-blooded animals (with notable exceptions) used in research, exhibition, and breeding for the pet trade. Now, this protection will finally be extended to include many types of birds.

### **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. Certain minimum thresholds will apply.

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

Yes. Facilities that meet the USDA threshold and criteria to be licensed will be subject to inspections by Animal Care Inspectors. 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?**

Birds will be provided the same protections as other animals covered under the AWA, including with regard to internet sales.

**Will the regulatory process provide opportunities for the public to comment before the final rule is established in 2023?**

Yes. As part of the rulemaking process, the USDA provided a public notice that it is seeking comment on the draft regulations. The deadline for public [comments](#) is April 25, 2022.

**How did birds gain protection under the AWA?**

Historically, the law itself did not exclude birds from the definition of “animal,” but USDA’s regulations excluded birds, along with rats and mice used in scientific research. 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, excluded birds, rats, and mice bred for use in research from the AWA definition of “animal.” Birds *not* bred for use in research were recognized 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 gained a favorable ruling on appeal. As a result, USDA agreed to complete the rulemaking to protect birds as required by the AWA within a specific timeline.

The final rule will be published in 2023.