

The Avian Welfare Coalition

“Dedicated to the Welfare and Protection of Captive Birds”

It took a 23-year legal effort by animal protection groups and a successful lawsuit brought by the American Anti-Vivisection Society and Avian Welfare Coalition that finally brought the U.S. Department of Agriculture (USDA) to finally promulgate regulations for birds not bred for research under the Animal Welfare Act (AWA)

For the first time, birds exploited in commercial industries regulated by the AWA, particularly in exhibition and breeding for the pet trade, are now provided species-specific standards of care and treatment by law.

This brief FAQ is intended to provide answers to some questions on how inclusion under the AWA will impact birds used in commerce.

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 is finally extended to include many types of birds.

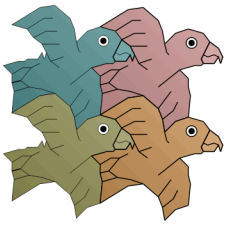
How is the AWA enforced?

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).

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

Yes. USDA will bring under regulation and subject to inspection and licensing approximately 5,000+ commercial entities that use birds in commerce. These regulations include requirements for the transport of unweaned birds, wading areas for aquatic birds, and psychological enrichment for all covered birds.

However, some exemptions will apply. For example, breeders who sell less than 200 birds (weighing 250 grams or less) annually are exempt from licensing. Complete details on USDA’s final rule: <https://www.aphis.usda.gov/awa/bird-standards>



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

No.

Are rescue organizations be subject to AWA regulations?

In some cases, yes, rescue organizations will be subject to licensing and inspection. Refer to USDA document: <https://www.aphis.usda.gov/awa/bird-standards/faq>

Does the AWA regulate the treatment of birds in pet stores?

No

Are licensed bird breeders and other commercial venues that use birds regulated by the AWA 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.

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

Birds are now provided the same protections as other animals covered under the AWA, including with regard to internet sales. 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, the “de minimis” rule governing the licensing requirements for birds will apply.

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. 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 succeeded on appeal. As a result, USDA became subject to a court order to complete the rulemaking to protect birds as required by the AWA. The final rule became effective in February 2023.