

From the USDA document Agency/Docket Number: Docket No. APHIS-2020-0068

In 2002, Congress amended ^[1] the definition of *animal* in the AWA by limiting the exclusion of birds from that definition to only those birds “bred for use in research,” which by so doing explicitly placed birds not bred for research and not otherwise excluded from regulation under the protection of the AWA. While that amendment placed birds not bred for research under the protection of the Act, the USDA did not immediately promulgate regulatory standards specific to birds, causing several animal welfare organizations to file lawsuits against the Department. **In 2020, an opinion by the U.S. Court of Appeals for the District of Columbia in one such case ^[2] resulted in the District Court’s ordering USDA to publish a proposal in the Federal Register to establish regulatory standards for birds no later than February 22, 2022, and to publish a final rule no later than 1 year after publication of the proposal.** Establishing standards in the AWA regulations specifically for birds is necessary to ensure animal welfare and align the regulations with the intent of the Act.

In short, 2 animal rights (NOT welfare) organizations (avian welfare coalition and the american anti-vivisection society) sued the USDA and a District Court reversed a judge’s decision and forced the USDA to write the regulations.

In response, the USDA/APHIS solicited comments and suggestions from “stakeholders”. Many avicultural organizations, aviculturists, zoos, falconers and falconry organizations, pigeon fanciers and others who work with birds on a daily basis responded. UNFORTUNATELY, the comment sections were ALSO flooded with comments (many copied and pasted, boilerplate versions) from animal rights extremists including HSUS and PeTA.

Overall, during the entire process of 2 long comment periods, and several call-in sessions, they received almost 20,000 comments.

The proposed regulations were posted and made available in Feb 2022, and again aviculturists and businesses commented and asked that certain things be changed or removed. Animal rights groups -as expected- claimed the regulations were not strict enough (they also demanded that NO trade in birds be allowed, and all bird keeping ended).

The document was posted in the Federal Register on 23 Feb 2023. The first 2/3 of it are the reasons why the USDA wrote certain things, some of the input they received and why they changed (or did NOT change) their rules from the original proposed regulations. As it is a very long document, here are some of the bigger points and links (not everything, as there is a LOT of information!). I would recommend reading through the document in short sections (there are headings from each section) and take some notes.

In addition, if you believe you will be required to have a license, look around at your facility. What do you need to do to come into compliance?

What needs changing or updating (cages, cleaning setup, dishes/ feeding stations, storage of feed and bedding).

Who will your attending veterinarian be?

Check out the forms for licensing. Currently regulated facilities will need to be in compliance by August 2023, new facilities by February 2024. They will most likely be flooded with license applications.

This link is a “short” version of what you need to do, If you will be regulated and how to get more information. <https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/new-bird-rule/awa-standards-for-birds>

Links below:

1. I recommend that you all read through the definitions for “exhibitor”, “pet bird” “exotic animal” “intermediate handler” “retail pet store” “weaned” and others, and especially the various exemptions. These are located under several headings. It’s easiest to scroll and scan until you find it.
2. some items to note:
3. a de minimus exemption of 200 birds under 250g and 8 (eight) birds OVER 250g sold annually. Any birds sold over those numbers will require a USDA license <https://www.federalregister.gov/d/2023-03357/p-18>

1. Retail pet stores are exempt from AWA (animal welfare act) regulations UNLESS they sell “exotic” animals. Any birds not already listed on the USDA site (link below) will be considered “exotic or wild” <https://www.federalregister.gov/d/2023-03357/p-140> and the updated list is below.

If a species you keep, breed, exhibit is not on that list I suggest contacting the USDA and asking that they be included. This is vital for smaller species that may not make the list otherwise, but are commonly kept by fanciers (softbills for example).

1. shipping unweaned – in the original document unweaned birds may be shipped with the attending veterinarian oversight; in the updated version NO unweaned birds may be shipped UNLESS it is for medical reasons. Many breeders have handfeeders raise birds, and many bird stores handfeed and raise birds shipped to them unweaned. <https://www.federalregister.gov/d/2023-03357/p-811>
1. a licensed facility will be required to have an attending veterinarian; this does not need to be an avian veterinarian <https://www.federalregister.gov/d/2023-03357/p-382>
1. prohibition on public contact with birds <https://www.federalregister.gov/d/2023-03357/p-421>
1. identification of animals <https://www.federalregister.gov/d/2023-03357/p-430>
1. exhibitor <https://www.federalregister.gov/d/2023-03357/p-123> bringing birds into the classroom, to public events and where the public may see and interact with birds for profit OR non-profit facility will fall under USDA regulation UNLESS the birds reside in the home of the owner. This may lead to many rescues falling under USDA regulation and licensing.
1. Pet animal <https://www.federalregister.gov/d/2023-03357/p-136>

1. health and husbandry <https://www.federalregister.gov/d/2023-03357/p-734>
1. food storage <https://www.federalregister.gov/d/2023-03357/p-526>
and <https://www.federalregister.gov/d/2023-03357/p-533> and <https://www.federalregister.gov/d/2023-03357/p-538>

The full document can be found here: <https://www.federalregister.gov/d/2023-03357>

The list of “pet” birds can be found here: <https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/new-bird-rule/pet-bird-species>

Videos, links and USDA contacts

The USDA has provided several short video presentations with information for individuals including an overview of the new regulations, how to see if you will fall under the licensing regulations and how to file for a license.

That is available at this link: <https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/new-bird-rule/awa-standards-for-birds>

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