Regulation of birds under the Animal Welfare Act

Until now, the USDA’s Animal and Plant Health Inspection Service has not enforced the Animal Welfare Act with respect to research involving birds not purpose-bred for research. Recently, APHIS finalized new AWA standards for birds not bred for use in research. What does this mean for ornithologists?

The Animal Welfare Act applies to research facilities, which are defined under that law as “any school (except an elementary or secondary school), institution, organization, or person that uses or intends to use live animals in research, tests, or experiments, and that (1) purchases or transports live animals in commerce, or (2) receives funds under a grant, award, loan, or contract from a department, agency, or instrumentality of the US for the purpose of carrying out research, tests, or experiments.” If your research institution receives federal grants or transports birds across state lines, then it is a facility for purposes of the AWA and must comply with the law.

Under the AWA, research facilities must:

1. Register with APHIS (Not required for federal facilities. Also, per USDA, research facilities that conduct only field studies do not need to register.)

2. Establish and follow an IACUC process and appropriate review protocols.

3. Follow housing and husbandry requirements set forth by the USDA.

4. Report annually to the USDA (Animals used only in field studies should not be included in the annual report.)

5. Undergo annual inspection.

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In practice, many research facilities working with birds are already meeting many, if not all, of these requirements, as a condition of funding that they already receive or because other research done by that facilities falls under the AWA. However, smaller institutions, especially those that work only with birds, should be aware of these new requirements.

The AWA also applies to exhibitors. Individuals or businesses with domestic or exotic birds that are on display, perform for the public, or used in educational presentations must be licensed as exhibitors. Licensed exhibitors might include circuses, zoos, educational displays, petting farms/zoo, animal acts, wildlife parks, marine mammal parks, and some wildlife sanctuaries.

Conservation and restoration organizations that release birds into the wild or maintain bird restoration programs are not required to be licensed, as long as they do not exhibit any birds. Likewise, rescues and shelters that do not exhibit or engage in any other covered activity are exempt from licensing.

**Under the AWA, exhibitors must:**

1. Secure a [license](#) from USDA.
2. Complete a pre-licensing inspection.
3. Follow housing and husbandry requirements set forth by the USDA.
4. Undergo annual inspection by the USDA.

**Questions about how these regulations will affect your institution?** [Contact the Ornithological Council](#).

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**History of birds and the AWA**

1966: Animal Welfare Act passed, defining animal as “live dogs, cats, monkeys (nonhuman primate mammals), guinea pigs, hamsters, and rabbits.”

2002: The 2002 Farm Bill amended the definition of animal in the AWA by specifically excluding birds, rats of the genus *Rattus*, and mice of the genus *Mus*, bred for use in research. For the first time, birds *not bred for research* were explicitly subject to AWA regulation.

2004: APHIS published a notice that they intended to extend enforcement of the AWA to birds not bred for use in research that were sold as pets, transported in commerce, or used for exhibition, research, teaching, testing, or experimentation.

2013: Several lawsuits filed against USDA for failure to promulgate the regulations proposed in 2004.

2020: In response to one of those lawsuits, APHIS once again published a notice that they intended to extend enforcement of the AWA to birds not bred for use in research.

2022: Draft regulations for birds under the AWA published.

2023: Final regulations with standards for birds-not-bred-for research under the AWA are published.

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**About the Ornithological Council**

The Ornithological Council is a consortium of scientific societies of ornithologists; these societies span the Western Hemisphere and the research conducted by their members spans the globe. Their cumulative expertise comprises the knowledge that is fundamental and essential to science-based bird conservation and management. The Ornithological Council is financially supported by our member societies and the individual ornithologists who value our work. If the OC’s resources are valuable to you, please consider joining one of our [member societies](#) or donating directly at [Birdnet.org](http://Birdnet.org). Thank you for your support!

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