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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 1, 2, and 3

[Docket No. APHIS-2020-0068]

Establishing AWA Standards for Birds; Virtual Public Meetings

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notification of public meeting.

SUMMARY: We are notifying the public that the Animal and Plant Health Inspection Service will hold virtual listening sessions to receive public input on topics related to the development of regulations regarding the welfare of birds not bred for use in research.

DATES: The virtual listening sessions will be held by webinar on Tuesday, September 29, 2020, at 11 a.m. Eastern Daylight Time (EDT); Wednesday, October 7, 2020, at 2 p.m. EDT; and Thursday, October 15, 2020, at 5 p.m. EDT.

FOR FURTHER INFORMATION CONTACT: Dr. Rosemary B. Sifford, Associate Deputy Administrator, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737; (301) 851-3498; [rosemary.sifford@usda.gov](mailto:rosemary.sifford@usda.gov).

SUPPLEMENTARY INFORMATION:

Under its regulations in title 9 of the Code of Federal Regulations (9 CFR), issued under the Animal Welfare Act, or AWA (7 U.S.C. 2131 *et seq.*), the U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS) enforces requirements for the humane care and treatment of certain animals that are exhibited to the public, sold for use as

pets, used in research, or transported commercially.<sup>1</sup> Although the AWA authorizes the regulation of birds not bred for use in research, APHIS has not to this date promulgated regulations and standards for the humane care and treatment of such birds.

On January 10, 2020, the U.S. Circuit Court of Appeals for the D.C. Circuit found, in its Opinion in the case *American Anti-Vivisection Society and Avian Welfare Coalition v. USDA*, that the AWA requires APHIS to issue standards applicable to birds and that APHIS has not issued such standards (Case #19-5015). On remand, the U.S. District Court for the District of Columbia stayed the case on May 26, 2020, setting forth the timeline for rulemaking to establish such standards (Case # 1:18-cv-01138-TNM).

Pursuant to the AWA, the D.C. Circuit Opinion, and the Stay, we intend to extend enforcement of the AWA to include birds other than those bred for use in research. However, before we consider what regulations and standards are appropriate for regulating such birds, we believe it is important to seek public input from stakeholders and other interested persons.

We are therefore scheduling a series of virtual listening sessions to gather information that will help us in developing regulations and standards that ensure the humane care and treatment of birds consistent with the AWA. Due to the COVID-19 pandemic, the listening sessions will be conducted virtually, by webinar.

The regulations in 9 CFR 2.1 and 2.25 provide licensing and registration requirements for dealers, exhibitors, operators of auction sales, and carriers and intermediate handlers. Section 2.1 also exempts certain entities from licensing, including retail pet stores that sell non-dangerous, pet-type animals, including birds, at retail only. In order to help us develop

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<sup>1</sup> Animals used for agricultural purposes are not regulated under the AWA. *See* 7 U.S.C. 2132(g)(defining “animal”).

regulations for birds that support both stakeholder needs and animal welfare, during the listening sessions we will seek public input on the following questions:

- Should we revise or add exemptions for certain dealers, exhibitors, operators of auction sales, and carriers and intermediate handlers of birds not bred for use in research? If so, what should those exemptions be? Please provide supporting data if possible.
- Are there thresholds beyond which an entity should not be required to be licensed? For example, we are aware that there are many entities who breed small numbers of birds; if we should exempt those entities, what exemption criteria should we use?
- Are there certain species which should be exempt?
- Are there appropriate performance-based standards we could establish across a wide variety of species of birds? Can we use classes of birds to set performance-based standards appropriate for the class? If so, what might these classes look like?
- How do bird breeders avoid interfering with nesting and breeding or other biological activities of birds? How can we ensure that housing, feeding, or inspection requirements do not interfere with these activities?

The listening sessions will be held on Tuesday, September 29, 2020, at 11 a.m. Eastern Daylight Time (EDT); Wednesday, October 7, 2020, at 2 p.m. EDT; and Thursday, October 15, 2020, at 5 p.m. EDT. Participants will need to register in advance in order to participate in the listening sessions. Registration instructions and updated session information can be accessed on the APHIS Animal Care News and Information web page at <https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/aw-news>, or may be obtained from the person listed under FOR FURTHER INFORMATION CONTACT. We also encourage interested persons to subscribe to APHIS' Stakeholder Registry to receive updated information

by e-mail about the upcoming listening sessions. You can find the link for subscribing to the Stakeholder Registry by scrolling down the APHIS Animal Care News and Information web page.

Done in Washington, DC, this 13<sup>th</sup> day of August 2020.

Mark Davidson,

Acting Administrator, Animal and Plant Health Inspection Service.

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