

taken in order to maintain species at levels above which they might become eligible for inclusion in Appendix I of the Convention.

(11) Resolutions adopted pursuant to the Convention recommend that the Parties to the Convention take appropriate measures regarding trade in species of exotic birds that have significantly high mortality rates in transport, including suspension of trade for commercial purposes between Parties when appropriate.

(12) Article XIV provides that the Convention in no way affects the right of any Party to the Convention to adopt stricter domestic measures for the regulation of trade in all species, whether or not listed in an Appendix to the Convention.

(13) The United States prohibits the export of all birds native to the United States that are caught in the wild.

(14) This chapter provides a series of non-discriminatory measures that are necessary for the conservation of exotic birds, and furthers the obligations of the United States under the Convention.

(Pub. L. 102-440, title I, §102, Oct. 23, 1992, 106 Stat. 2224.)

#### SHORT TITLE

Pub. L. 102-440, title I, §101, Oct. 23, 1992, 106 Stat. 2224, provided that: "This title [enacting this chapter] may be cited as the 'Wild Bird Conservation Act of 1992'."

#### § 4902. Statement of purpose

The purpose of this chapter is to promote the conservation of exotic birds by—

(1) assisting wild bird conservation and management programs in the countries of origin of wild birds;

(2) ensuring that all trade in species of exotic birds involving the United States is biologically sustainable and is not detrimental to the species;

(3) limiting or prohibiting imports of exotic birds when necessary to ensure that—

(A) wild exotic bird populations are not harmed by removal of exotic birds from the wild for the trade; or

(B) exotic birds in trade are not subject to inhumane treatment; and

(4) encouraging and supporting effective implementation of the Convention.

(Pub. L. 102-440, title I, §103, Oct. 23, 1992, 106 Stat. 2225.)

#### § 4903. Definitions

In this chapter—

(1) The term "Convention" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, as amended, signed in Washington on March 3, 1973, and the Appendices thereto.

(2) The term "exotic bird"—

(A) means any live or dead member of the class Aves that is not indigenous to the 50 States or the District of Columbia, including any egg or offspring thereof; and

(B) does not include—

(i) domestic poultry, dead sport-hunted birds, dead museum specimens, dead scientific specimens, or products manufactured from such birds; or

(ii) birds in the following families: Phasianidae, Numididae, Cracidae, Meleagrididae, Megapodiidae, Anatidae, Struthionidae, Rheidae, Dromaiinae, and Gruidae.

(3) Each of the terms "import" and "importation" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States.

(4) The term "person" means an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government; any State, municipality, or political subdivision of a State; or any other entity subject to the jurisdiction of the United States.

(5) The term "qualifying facility" means an exotic bird breeding facility that is included in a list published by the Secretary under section 4906 of this title.

(6) The term "Secretary" means the Secretary of the Interior or a designee of the Secretary of the Interior.

(7) The term "species"—

(A) means any species, any subspecies, or any distinct population segment of a species or subspecies; and

(B) includes hybrids of any species or subspecies.

(8) The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(Pub. L. 102-440, title I, §104, Oct. 23, 1992, 106 Stat. 2225.)

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

#### § 4904. Moratoria on imports of exotic birds covered by Convention

##### (a) Immediate moratorium

###### (1) Establishment of moratorium

The importation of any exotic bird of a species identified as a category B species in the report entitled "Report of the Animals Committee", adopted by the 8th meeting of the Conference of the Parties to the Convention, is prohibited.

###### (2) Termination of moratorium

A species of exotic birds shall be subject to the prohibition on importation established by paragraph (1) until the Secretary, after notice and an opportunity for public comment—

(A) determines that appropriate remedial measures have been taken in the countries

of origin for that species, so as to eliminate the threat of trade to the conservation of the species; and

(B) makes the findings described in section 4905(c) of this title for the species and includes the species in the list published under section 4905(a) of this title.

**(b) Emergency authority to suspend imports of listed species**

**(1) Authority to suspend imports**

The Secretary is authorized to suspend the importation of exotic birds of any species that is listed in any Appendix to the Convention, and if applicable remove the species from the list under section 4905(a) of this title, if the Secretary determines that—

(A)(i) trade in that species is detrimental to the species,

(ii) there is not sufficient information available on which to base a judgment that the species is not detrimentally affected by trade in that species, or

(iii) remedial measures have been recommended by the Standing Committee of the Convention that have not been implemented; and

(B) the suspension might be necessary for the conservation of the species.

**(2) Termination of suspension**

A species of exotic birds shall be subject to a suspension of importation under paragraph (1) until the Secretary, after notice and an opportunity for public comment, makes the findings described in section 4905(c) of this title and includes the species in the list published under section 4905(a) of this title.

**(c) Moratorium after one year for other species listed in appendices**

Effective on the date that is one year after October 23, 1992, the importation of any exotic bird of a species that is listed in any Appendix to the Convention is prohibited unless the Secretary makes the findings described in section 4905(c) of this title and includes the species in the list published under section 4905(a) of this title.

**(d) Limitation on number imported during first year**

Notwithstanding any other provision of this chapter, the Secretary shall prohibit the importation, during the 1-year period beginning on October 23, 1992, of exotic birds of each species that is listed under any Appendix to the Convention in excess of the number of that species that were imported during the most recent year for which the Secretary has complete import data.

(Pub. L. 102-440, title I, §105, Oct. 23, 1992, 106 Stat. 2226.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original “this Act” and was translated as reading “this title”, meaning title I of Pub. L. 102-440, known as the Wild Bird Conservation Act of 1992, to reflect the probable intent of Congress.

**§ 4905. List of approved species**

**(a) Listing**

**(1) In general**

One year after October 23, 1992, and periodically thereafter, the Secretary shall, after no-

tice and an opportunity for public comment, publish in the Federal Register a list of species of exotic birds that are listed in an Appendix to the Convention and that are not subject to a prohibition or suspension of importation otherwise applicable under section 4904(a), (b), or (c) of this title.

**(2) Manner of listing**

The Secretary shall list a species under paragraph (1) with respect to—

(A) the countries of origin from which the species may be imported; and

(B) if appropriate, the qualifying facilities in those countries from which the species may be imported.

**(3) Bases for determinations**

In making a determination required under this subsection, the Secretary shall—

(A) use the best scientific information available; and

(B) consider the adequacy of regulatory and enforcement mechanisms in all countries of origin for the species, including such mechanisms for control of illegal trade.

**(b) Captive bred species**

The Secretary shall include a species of exotic birds in the list under subsection (a) of this section if the Secretary determines that—

(1) the species is regularly bred in captivity and no wild-caught birds of the species are in trade; or

(2) the species is bred in a qualifying facility.

**(c) Non-captive bred species**

The Secretary shall include in the list under subsection (a) of this section a species of exotic birds that is listed in an Appendix to the Convention if the Secretary finds the Convention is being effectively implemented with respect to that species because of each of the following:

(1) Each country of origin for which the species is listed is effectively implementing the Convention, particularly with respect to—

(A) the establishment of a scientific authority or other equivalent authority;

(B) the requirements of Article IV of the Convention with respect to that species; and

(C) remedial measures recommended by the Parties to the Convention with respect to that species.

(2) A scientifically-based management plan for the species has been developed which—

(A) provides for the conservation of the species and its habitat and includes incentives for conservation;

(B) ensures that the use of the species is biologically sustainable and maintained throughout the range of the species in the country to which the plan applies at a level that is consistent with the role of the species in the ecosystem and is well above the level at which the species might become threatened with extinction; and

(C) addresses factors relevant to the conservation of the species, including illegal trade, domestic trade, subsistence use, disease, and habitat loss.

(3) The management plan is implemented and enforced.