

(1) within 90 days after receiving the petition, issue and publish in the Federal Register a preliminary ruling regarding whether the petition presents sufficient information indicating that the action requested in the petition might be warranted; and

(2) for each petition determined to present such sufficient information—

(A) provide an opportunity for the submission of public comment on the petition; and

(B) issue and publish in the Federal Register a final ruling on the petition, by not later than 90 days after the end of the period for public comment.

(Pub. L. 102-440, title I, §110, Oct. 23, 1992, 106 Stat. 2229.)

§ 4910. Prohibited acts

(a) Prohibitions

(1) In general

Subject to paragraph (2), it is unlawful for any person to—

(A) import any exotic bird in violation of any prohibition, suspension, or quota on importation under section 4904 or 4907 of this title;

(B) import an exotic bird of a species that pursuant to section 4905(a)(2)(B) of this title is included in a list under section 4905 of this title, if the bird was not captive bred at a qualifying facility; or

(C) violate any regulation promulgated by the Secretary pursuant to authority provided by this chapter.

(2) Limitation

Paragraph (1)(A) and (B) does not apply to importations made incident to the transit of exotic birds through the United States to foreign countries if the applicable requirements of the Convention have been satisfied with respect to the trade in those exotic birds.

(b) Burden of proof for exemptions

Any person claiming the benefit of any exemption or permit under this chapter shall have the burden of proving that the exemption or permit is applicable or has been granted, and was valid and in force at the time of the alleged violation.

(Pub. L. 102-440, title I, §111, Oct. 23, 1992, 106 Stat. 2230.)

§ 4911. Exemptions

Notwithstanding any prohibition, suspension, or quota under this chapter on the importation of a species of exotic bird, the Secretary may, through the issuance of import permits, authorize the importation of a bird of the species if the Secretary determines that such importation is not detrimental to the survival of the species and the bird is being imported exclusively for any of the following purposes:

(1) Scientific research.

(2) As a personally owned pet of an individual who is returning to the United States after being continuously out of the country for a minimum of one year, except that an individual may not import more than 2 exotic birds under this paragraph in any year.

(3) Zoological breeding or display programs.

(4) Cooperative breeding programs that are—
(A) designed to promote the conservation of the species and maintain the species in the wild by enhancing the propagation and survival of the species; and

(B) developed and administered by, or in conjunction with, an avicultural, conservation, or zoological organization that meets standards developed by the Secretary.

(Pub. L. 102-440, title I, §112, Oct. 23, 1992, 106 Stat. 2230.)

§ 4912. Penalties and regulations

(a) Penalties

(1) Civil penalties

(A) Any person who knowingly violates, and any person engaged in business as an importer of exotic birds who violates, section 4910(a)(1) or (2)¹ of this title or any permit issued under section 4911 of this title may be assessed a civil penalty by the Secretary of not more than \$25,000 for each violation.

(B) Any person who knowingly violates, and any person engaged in business as an importer of exotic birds who violates, section 4910(a)(3)² of this title may be assessed a civil penalty by the Secretary of not more than \$12,000 for each such violation.

(C) Any person who otherwise violates section 4910(a) of this title or any permit issued under section 4911 of this title may be assessed a civil penalty by the Secretary of not more than \$500 for each such violation.

(D) A civil penalty under this section shall be assessed, and may be collected, in the manner in which a civil penalty under the Act of December 28, 1973 (Public Law 93-205) [16 U.S.C. 1531 et seq.], may be assessed and collected under section 111(a)³ of that Act [16 U.S.C. 1540(a)].

(2) Criminal penalties

(A) Any person who knowingly violates, and any person engaged in business as an importer of exotic birds who violates, section 4910(a)(1) or (2)¹ of this title or any permit issued under section 4911 of this title shall be fined under title 18 or imprisoned for not more than 2 years, or both.

(B) Any person who knowingly violates section 4910(a)(3)² of this title shall be fined under title 18, imprisoned not more than 6 months, or both.

(b) District court jurisdiction

The several district courts of the United States, including the courts enumerated in section 460 of title 28, shall have jurisdiction over any action arising under this chapter. For the purposes of this chapter, American Samoa shall be included in the Judicial District of the District Court of the United States for the District of Hawaii, and the Trust Territory of Palau and the Northern Marianas shall be included in the Judicial District of the District Court of the United States for the District of Guam.

¹ So in original. Probably should be section “4910(a)(1)(A) or (B)”.

² So in original. Probably should be section “4910(a)(1)(C)”.

³ So in original. Probably should be section “11(a)”.