

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.)

Editorial Notes

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 notice 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) 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) a species of exotic birds that is listed in an Appendix to the Convention if the Secretary finds the Convention is being effec-

tively 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.

(4) The methods of capture, transport, and maintenance of the species minimizes the risk of injury or damage to health, including inhumane treatment.

(Pub. L. 102-440, title I, §106, Oct. 23, 1992, 106 Stat. 2227.)

§ 4906. Qualifying facilities

(a) Determination

Upon submission of a petition under section 4909 of this title by any person, the Secretary shall determine whether an exotic bird breeding facility is a qualifying facility. Such determination shall be effective for a period specified by the Secretary, which may not exceed 3 years. The Secretary shall, from time to time, publish a list of qualifying facilities in the Federal Register.

(b) Criteria

The Secretary shall determine under subsection (a) that a facility is a qualifying facility for a species of exotic birds if the Secretary finds each of the following:

(1) The facility has demonstrated the capability of producing captive bred birds of the species in the numbers to be imported into the United States from that facility.

(2) The facility is operated in a manner that is not detrimental to the survival of the species in the wild.

(3) The facility is operated in a humane manner.

(4) The appropriate governmental authority of the country in which the facility is located has certified in writing, and the Secretary is satisfied, that the facility has the capability of breeding the species in captivity.