

- (5) The country in which the facility is located is a Party to the Convention.
- (6) All birds exported from the facility are bred at the facility.

(Pub. L. 102-440, title I, §107, Oct. 23, 1992, 106 Stat. 2228.)

#### § 4907. Moratoria for species not covered by Convention

##### (a) In general

The Secretary shall—

(1) review periodically the trade in species of exotic birds that are not listed in any Appendix to the Convention; and

(2) after notice and an opportunity for public comment, establish a moratorium or quota on—

(A) importation of any species of exotic birds from one or more countries of origin for the species, if the Secretary determines that—

(i) the findings described in section 4905(c)(2), (3), and (4) of this title cannot be made with respect to the species; and

(ii) the moratorium or quota is necessary for the conservation of the species or is otherwise consistent with the purpose of this chapter; or

(B) the importation of all species of exotic birds from a particular country, if—

(i) the country has not developed and implemented a management program for exotic birds in trade generally, that ensures both the conservation and the humane treatment of exotic birds during capture, transport, and maintenance; and

(ii) the Secretary finds that the moratorium or quota is necessary for the conservation of the species or is otherwise consistent with the purpose of this chapter.

##### (b) Termination of quota or moratorium

The Secretary shall terminate a quota or moratorium established under subsection (a) if the Secretary finds that the reasons for establishing the quota or moratorium no longer exist.

(Pub. L. 102-440, title I, §108, Oct. 23, 1992, 106 Stat. 2229.)

#### § 4908. Call for information

Within one month after October 23, 1992, the Secretary shall issue a call for information on the wild bird conservation program of each country that exports exotic birds, by—

(1) publishing a notice in the Federal Register requesting submission of such information to the Secretary by all interested persons; and

(2) submitting a written request for such information through the Secretary of State to each country that exports exotic birds.

(Pub. L. 102-440, title I, §109, Oct. 23, 1992, 106 Stat. 2229.)

#### § 4909. Petitions

##### (a) In general

Any person may at any time submit to the Secretary a petition in writing requesting that

the Secretary exercise authority of the Secretary under this chapter to—

(1) establish, modify, or terminate any prohibition, suspension, or quota under this chapter on importation of any species of exotic bird;

(2) add a species of exotic bird to, or remove such a species from, a list under section 4905 of this title; or

(3) determine under section 4906 of this title whether an exotic bird breeding facility is a qualifying facility.

##### (b) Consideration and ruling

For each petition submitted to the Secretary in accordance with subsection (a), the Secretary shall—

(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