

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTA- TION OF WILDLIFE AND PLANTS

PART 10—GENERAL PROVISIONS

Subpart A—Introduction

Sec.

- 10.1 Purpose of regulations.
- 10.2 Scope of regulations.
- 10.3 Other applicable laws.
- 10.4 When regulations apply.

Subpart B—Definitions

- 10.11 Scope of definitions.
- 10.12 Definitions.
- 10.13 List of Migratory Birds.

Subpart C—Addresses

- 10.21 Director.
- 10.22 Law enforcement offices.

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SOURCE: 38 FR 22015, Aug. 15, 1973, unless otherwise noted.

Subpart A—Introduction

§ 10.1 Purpose of regulations.

The regulations of this Subchapter B are promulgated to implement the following statutes enforced by the U.S. Fish and Wildlife Service which regulate the taking, possession, transportation, sale, purchase, barter, exportation, and importation of wildlife:

- Lacey Act, 18 U.S.C. 42.
- Lacey Act Amendments of 1981, 16 U.S.C. 3371–3378.
- Migratory Bird Treaty Act, 16 U.S.C. 703–712.
- Bald and Golden Eagle Protection Act, 16 U.S.C. 668a–668d.
- Endangered Species Act of 1973, 16 U.S.C. 1531–1543.
- Tariff Classification Act of 1962, 19 U.S.C. 1202, [Schedule 1, Part 15D, Headnote 2(d), T.S.U.S.].
- Fish and Wildlife Act of 1956, 16 U.S.C. 742a–742j–1.
- Marine Mammal Protection Act of 1972, 16 U.S.C. 1361–1384, 1401–1407.

[38 FR 22015, Aug. 15, 1973, as amended at 53 FR 6649, Mar. 2, 1988]

§ 10.2 Scope of regulations.

The various parts of this subchapter B are interrelated, and particular note should be taken that the parts must be construed with reference to each other.

§ 10.3 Other applicable laws.

No statute or regulation of any State shall be construed to relieve a person from the restrictions, conditions, and requirements contained in this subchapter B. In addition, nothing in this subchapter B, nor any permit issued under this subchapter B, shall be construed to relieve a person from any other requirements imposed by a statute or regulation of any State or of the United States, including any applicable health, quarantine, agricultural, or customs laws or regulations, or other Service enforced statutes or regulations.

§ 10.4 When regulations apply.

The regulations of this subchapter B shall apply to all matters arising after the effective date of such regulations, with the following exceptions:

(a) *Civil penalty proceedings.* Except as otherwise provided in § 11.25, the civil penalty assessment procedures contained in this subchapter B shall apply only to any proceeding instituted by notice of violation dated subsequent to the effective date of these regulations, regardless of when the act or omission which is the basis of a civil penalty proceeding occurred.

(b) *Permits.* The regulations in this subchapter B shall apply to any permit application received after the effective date of the appropriate regulations in this subchapter B and, insofar as appropriate, to any permit which is renewed after such effective date.

[38 FR 22015, Aug. 15, 1973, as amended at 39 FR 1159, Jan. 4, 1974]

Subpart B—Definitions

§ 10.11 Scope of definitions.

In addition and subject to definitions contained in applicable statutes and subsequent parts or sections of this subchapter B, words or their variants shall have the meanings ascribed in this subpart. Throughout this subchapter B words in the singular form shall include the plural, words in the plural form shall include the singular, and words in the masculine form shall include the feminine.

§ 10.12 Definitions.

Aircraft means any contrivance used for flight in the air.

Amphibians means a member of the class, Amphibia, including, but not limited to, frogs, toads, and salamanders; including any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

Animal means an organism of the animal kingdom, as distinguished from the plant kingdom; including any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

Birds means a member of the class, Aves; including any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

Country of exportation means the last country from which the animal was exported before importation into the United States.

Country of origin means the country where the animal was taken from the wild, or the country of natal origin of the animal.

Crustacean means a member of the class, Crustacea, including but not limited to, crayfish, lobsters, shrimps, crabs, barnacles, and some terrestrial forms; including any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a man-

ufactured product or in a processed food product.

Director means the Director of the United States Fish and Wildlife Service, Department of the Interior, or his authorized representative.

Endangered wildlife means any wildlife listed in § 17.11 or § 17.12 of this subchapter.

Fish means a member of any of the following classes:

(1) Cyclostomata, including, but not limited to, hagfishes and lampreys;

(2) Elasmobranchii, including but not limited to, sharks, skates, and rays; and

(3) Pisces, including but not limited to trout, perch, bass, minnows, and catfish; including any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

Fish or wildlife means any wild animal, whether alive or dead, including without limitation any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, arthropod, coelenterate, or other invertebrate, whether or not bred, hatched, or born in captivity, and including any part, product, egg, or offspring thereof.

Foreign commerce includes, among other things, any transaction (1) between persons within one foreign country, or (2) between persons in two or more foreign countries, or (3) between a person within the United States and a person in one or more foreign countries, or (4) between persons within the United States, where the fish or wildlife in question are moving in any country or countries outside the United States.

Fossil means the remains of an animal of past geological ages which has been preserved in the earth's crust through mineralization of the object.

Import 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, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the tariff laws of the United States.