



## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 10

[Docket No. FWS–HQ–LE–2026–0628; FXLE12200900000-267-FF09L00000]

RIN 1018–BJ16

#### Definition of Shellfish; Inclusion of Cephalopods

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), propose to amend the definition of “shellfish” in the Code of Federal Regulations (CFR) by removing the phrase “having a shell” and adding specific taxa. This amendment would clarify that squid, cuttlefish, octopus, and other cephalopods are included within the regulatory definition of shellfish. This action is deregulatory in nature, as it reduces regulatory ambiguity, aligns the Service’s regulations with current biological understanding and commercial practice, reduces regulatory burden and is within the Service’s purview to amend definitions as needed.

**DATES:** We will consider comments received or postmarked on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date.

To ensure your comment is received and considered, you must submit it using one of the methods identified in the **ADDRESSES** section of this document. Comments submitted through any method not authorized in this document, or sent to an address not listed here, will not be considered.

**ADDRESSES:** All submissions must include the docket number FWS–HQ–LE–2026–0628 this document. You must submit comments using one of the following methods:

(1) *Electronic submission:* Federal eRulemaking Portal at: <https://www.regulations.gov>. In the Search box, enter FWS–HQ–LE–2026–0628, which is the docket number for this action. Then click the Search button. On the resulting page, you may submit a comment by clicking on “Comment.” Please ensure that you have found the correct document before submitting your comments.

(2) *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–HQ–LE–2026–0628, Policy and Regulations Branch, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803.

Comments submitted through any method not authorized in this document, or sent to an address not listed here, will not be considered. We will not accept comments via email, fax, or hand delivery. We are not required to consider comments that are submitted after the comment period ends or that are submitted via a method outside of these instructions.

Comments containing profanity, vulgarity, threats, or other inappropriate content will not be considered.

We will post all comments at <https://www.regulations.gov>. You may request that we withhold personal identifying information from public review; however, we cannot guarantee that we will be able to do so. See **Public Comments**, below, for more information.

**FOR FURTHER INFORMATION CONTACT:** Douglas R. Ault, Assistant Director, Office of Law Enforcement, U.S. Fish and Wildlife Service, (703) 358–1949. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. For a summary of the proposed rule, please see the proposed rule summary document in Docket No. FWS–HQ–LE–2026–0628 on <https://www.regulations.gov>.

**SUPPLEMENTARY INFORMATION:**

## **Public Comments**

We are opening a 30-day comment period for this proposed rule. We intend that any final action resulting from this proposed rule will be as accurate and effective as possible. The Service invites interested persons to submit written data, views, or arguments on all aspects of this proposed rule. To effectively respond to comments, we recommend that comments include the following: a reference to a specific portion of the proposed rule, an explanation of the reason for any recommended change, and the inclusion of data, information, or authority that support that recommended change.

Because we will consider all comments and information we receive during the comment period, our final determination may differ from this proposal.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We will not accept comments you send by e-mail or fax or that you send to an address not listed in **ADDRESSES**. We will not consider mailed comments that are not postmarked by the date specified in **DATES**.

We will post your entire comment—including your personal identifying information—on <https://www.regulations.gov>. If you provide personal identifying information in a hard-copy comment, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection at <https://www.regulations.gov> in Docket No. FWS–HQ–LE–2026–0628.

## **Background**

The regulations in 50 CFR part 10 establish definitions applicable throughout Subchapter B of title 50 governing wildlife and wildlife products under the jurisdiction of the Service. Section 10.12 defines “shellfish” as an aquatic invertebrate having a shell. This formulation

reflects historical terminology rather than contemporary biological classification or modern commercial use.

Cephalopods, including squid, cuttlefish, octopus, and nautilus, are mollusks but are characterized by either an internal shell, a reduced shell, or no shell at all. As a result, the current regulatory definition has created ambiguity as to whether cephalopods qualify as shellfish for purposes of wildlife importation, exportation, declaration, inspection, and enforcement under 50 CFR parts 10, 14, and related provisions.

In practice, this ambiguity has led to inconsistent treatment of mollusks and mollusk products at ports of entry, confusion among regulated entities, and unnecessary regulatory burden on importers, exporters, and enforcement personnel.

### **Proposed Rulemaking**

The purpose of this proposed rule is to modernize and clarify the definition of “shellfish” by removing an outdated morphological qualifier (“having a shell”) that no longer reflects biological taxonomy or regulatory. By doing so, the Service intends to reduce regulatory uncertainty and compliance costs for the seafood trade, improve consistency in inspection and enforcement decisions, avoid unnecessary permitting or documentation requirements resulting from misclassification, and ensure that Service regulations reflect current scientific understanding of molluscan biology.

The Service reviewed 50 CFR parts 14 and 17, as well as other related provisions, to evaluate whether conforming regulatory amendments are warranted in connection with this proposed revision to the definition of “shellfish” in § 10.12. Based on this review, the Service has determined that no conforming amendments are necessary. The proposed amendment clarifies an existing definition and parts 14 and 17 remain fully operative and consistent with this amendment without further regulatory modification.

### **Deregulatory Effects**

This action is deregulatory because it eliminates ambiguity that can trigger unnecessary regulatory requirements. Under the existing definition, cephalopods may be incorrectly treated as non-shellfish wildlife, potentially subjecting regulated parties to additional declaration, permitting, or enforcement scrutiny not intended for commercially traded seafood products. By clarifying that cephalopods are included within the definition of shellfish, this rule reduces the likelihood that routine trade in squid, cuttlefish, octopus, and related products will be subject to inconsistent or duplicative regulatory treatment. The rule does not impose any new compliance obligations, reporting requirements, or restrictions on trade.

### **Proposed Regulation Promotes Regulatory Efficiency**

Clear and biologically accurate definitions reduce the need for case-by-case interpretation by both the regulated community and the Service. Removing the phrase “having a shell” avoids disputes over anatomical characteristics that are irrelevant to regulatory intent and enforcement, thereby promoting efficient use of agency resources and reducing unnecessary compliance costs.

### **Required Determinations**

#### *Executive Orders 12866 and 13563 (Regulatory Planning and Review)*

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this proposed rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation’s regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an

open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

*Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency must publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions).

Pursuant to 5 U.S.C. 605(b), the Service hereby certifies that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Accordingly, an initial Regulatory Flexibility Analysis is not required. This proposed rule clarifies a regulatory definition and reduces compliance obligations that should result in a cost savings for small businesses. This proposed rule does not establish new compliance requirements, reporting obligations, or performance standards for small entities, including small businesses, small nonprofit organizations, or small governmental jurisdictions as defined in 5 U.S.C. 601.

*Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

In accordance with the Unfunded Mandates Reform Act, we have determined the following:

a. A Small Government Agency Plan is not required. We are the lead agency for carrying out regulations that govern and monitor the importation and exportation of wildlife and for carrying out U.S. obligations under CITES. No small government assistance or impact is expected as a result of this proposed rule. Therefore, this proposed rule has no effect on small governments or their responsibilities.

b. This proposed rule will not produce a Federal requirement that may result in the combined expenditure by State, local, or Tribal governments of \$100 million or greater in any

year, so it is not a significant regulatory action under the Unfunded Mandates Reform Act. This proposed rule will not result in any combined expenditure by State, local, or Tribal governments.

*E.O. 12630 (Takings)*

Under E.O. 12630, this proposed rule does not have significant takings implications. This proposed rule does not affect any constitutionally protected property rights. It will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. A takings implication assessment is not required. The purpose of this proposed rule is to clarify and streamline the requirements and processes related to the import and export of wildlife at U.S. ports and borders. Therefore, this proposed rule does not have significant takings implications.

*E.O. 13132 (Federalism)*

Under E.O. 13132, this proposed rule does not have significant federalism effects. A federalism summary impact statement is not required. This proposed rule will not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government.

*Civil Justice Reform—E.O. 12988*

In accordance with E.O. 12988 (Civil Justice Reform), this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

*Government-to-Government Relationship with Tribes*

In accordance with the President’s memorandum of April 29, 1994 (“Government-to-Government Relations With Native American Tribal Governments;” 59 FR 22951, May 4, 1994), E.O. 13175 (“Consultation and Coordination with Indian Tribal Governments”), the President’s memorandum of November 30, 2022 (“Uniform Standards for Tribal Consultation;” 87 FR 74479, December 5, 2022), and the Department of the Interior’s manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes and Alaska Native Corporations on a government-to-government basis. In accordance with S.O. 3206 of June 5, 1997 (“American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act”), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes.

*Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)*

This proposed rule does not contain any new collection of information that requires approval by the OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*National Environmental Policy Act (42 U.S.C. 4321 et seq.)*

This proposed rule is being analyzed under the criteria of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.), Department of the Interior (DOI) regulations at 43 CFR 46.210, and the DOI Handbook of National Environmental Policy Act Implementing Procedures (516 DM 1). We have yet to determine whether environmental assessments and environmental impact statements, as defined under the authority of NEPA, need to be prepared in connection with this rulemaking action.

We are continuing to consider the extent to which our proposed regulation changes may have a significant effect on the human environment or fall within one of the categorical

exclusions for actions that have no individual or cumulative significant effect on the quality of the human environment. We invite the public to comment on these or any other aspects of the NEPA analysis of these revisions. We will complete our analysis in accordance with NEPA and applicable regulations before finalizing this proposed rule.

*E.O. 13211 (Energy Supply, Distribution, or Use)*

On May 18, 2001, the President issued E.O.13211 on regulations that significantly affect energy supply, distribution, and use. E.O.13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed rule is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

*Clarity of The Rule*

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- a) Be logically organized;
- b) Use the active voice to address readers directly;
- c) Use common, everyday words and clear language rather than jargon;
- d) Be divided into short sections and sentences; and
- e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the “**ADDRESSES**” section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

**List of Subjects in 50 CFR Part 10**

Exports, Fish, Imports, Law enforcement, Plants, Transportation, Wildlife.

## Proposed Regulation Promulgation

For the reasons set forth in the preamble, we propose to amend part 10, subchapter B of chapter 1, title 50 of the Code of Federal Regulations as follows:

### PART 10—GENERAL PROVISIONS

#### 1. The authority citation for part 10 continues to read as follows:

Authority: 16 U.S.C. 668a-d, 703–712, 742a-j-l, 1361–1384, 1401–1407, 1531–1543, 3371–3378; 18 U.S.C. 42; 19 U.S.C. 1202.

### Subpart B—Definitions

#### 2. Amend § 10.12 by revising the definition of “Shellfish” to read as follows:

#### § 10.12 Definitions.

\* \* \* \* \*

*Shellfish* means an aquatic invertebrate animal of the following taxa:

- (1) Mollusca, including but not limited to an oysters, clams, squid, octopus, or cuttlefish;
- and
- (2) Order Decapoda, including, but not limited to a lobsters, crabs, crayfish, shrimp or other crustaceans; and
- (3) Any part, product, egg or offspring thereof, or the dead body or parts thereof (excluding fossils), of any species included in paragraphs (1)–(2) of this definition, whether or not included in a manufactured product or in a processed food product.

\* \* \* \* \*

**Kevin Lilly,**

*Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, Exercising the Delegated Authority of the Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2026-04460 Filed: 3/5/2026 8:45 am; Publication Date: 3/6/2026]