



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: U.S. Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are amending the definition of “shellfish” in the Code of Federal Regulations (CFR) by removing the phrase “having a shell” and adding specific taxa. This amendment will 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: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Public comments and materials received, as well as supporting documentation used in the preparation of this final regulation, are available at <https://www.regulations.gov> at Docket No. FWS–HQ–LE–2026–0628.

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.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 50 CFR part 10 establish definitions applicable throughout title 50 of the Code of Federal Regulations governing wildlife and wildlife products under the jurisdiction of the Service. Section 10.12 defines “shellfish” as “any species of mollusk having a shell,” a formulation that 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. (*Merriam-Webster’s Collegiate Dictionary* (12th ed. 2025)). Similarly, Cephalopods are members of the Cephalopoda family, which includes Ammonites, characterized by a flat-coiled spiral shell. (*Oxford English Dictionary* (3d. ed., June 2026)). 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 cephalopod products at ports of entry, confusion among regulated entities, and unnecessary regulatory burden on importers, exporters, and enforcement personnel.

Effects of the Final Rule

After consideration of the information provided through the public comment process, we are finalizing this rule with minor grammatical corrections. We are adding the term “Phylum” before the word Mollusca in subparagraph (1) and adding a comma after “but not limited to” in subparagraphs (1) and (2). We are also removing the words “an” in subparagraph (1) and “a” in subparagraph (2). We have provided responses to

questions and concerns submitted during the public comment period under **Summary of Comments and Responses**, below.

In finalizing the specific change to the current regulations in the rule portion of this document and setting out the accompanying clarifying discussion in this preamble, we are establishing prospective standards only. These regulations will apply to shipments being imported into or exported out of the United States on or after the effective date of this rule and will not apply retroactively to shipments that were imported or exported prior to the effective date of this rule. For the effective date of this rule see **DATES**, above. Nothing in these revisions to the regulations is intended to require that the Service reevaluate actions taken on shipments of affected species imported or exported prior to the effective date of this rule on the basis of these final regulations.

Summary of Comments and Responses

In our March 6, 2026, proposed rule (91 FR 11019), we requested public comments by April 6, 2026. We received a total of 69 comments, 66 of which contained substantive remarks on the proposed rule with specific support or opposition to the definition change. One of the substantive comments was an exact duplicate of another and submitted by the same commenter. Two of the comments were non-substantive in nature, expressing either general opposition or support to the proposed rule with no supporting information or analysis. One comment contained no information. Commenters included individual members of the public, industry members and representative organizations, non-governmental and environmental organizations, and a Federal agency, among others. Below, we summarize and respond to the significant, substantive comments we received.

Comments regarding biological, ecological and conservation concerns: The Service received comments from the cephalopod industry and their representative organizations, and one Federal agency, the U.S. Small Business Administration Office of

Advocacy, supporting the proposed rule stating that the change better aligns with commercial use and scientific understanding of the species in question.

The Service received comments opposed to the rule due to concerns that cephalopods are biologically distinct from shellfish and should not be consolidated into the same category as shellfish. These comments also stated that the very disparate source and harvest methods used for shellfish and cephalopods, primarily aquaculture for shellfish and various methods of wild harvest for cephalopods, do not support applying the same regulations to both taxa. Additionally, concerns were raised that the proposed rule ignores known risks to wild populations of cephalopods due to poorly regulated international harvesting. Some comments raised questions related to animal welfare due to the intelligence of cephalopods and the lack of control over international harvest methods.

Several comments raised concern regarding traceability and data loss that could be critical to monitoring and ensuring sustainability of wild populations and trade. Several comments mentioned concerns that this proposed rule would undermine ecological management of cephalopod populations and their sustainability based on known concerns about the lack of regulations governing international sourcing of cephalopods. They raised concerns that the proposed rule shows a lack of thorough analysis of impacts of this rule on conservation and ecological management and sustainability. The Service received comments from the public and the shellfish industry stating that the proposed rule does not align with current scientific and taxonomic treatment of these species, or the common usage of the term “shellfish” both within the industry and within vernacular language.

Response: While the Service acknowledges these concerns, this rule is intended to align with the statutory language (16 USC 1538(d)-(f)) exempting shellfish and fishery products for human or animal consumption and to clarify whether the Service’s

import/export regulations apply to cephalopods. Current scientific classification agrees that cephalopods are mollusks, whether an external shell is present or not. Multiple other biological characteristics define the group of animals including a soft, unsegmented body and living in a damp or aquatic habitat, with some members of the group having a hard, external shell. Most cephalopods possess a hard internal shell rather than an external shell, thus still qualifying them as shellfish. One instance where the accepted definition clearly includes cephalopods is in the case of a medical term for “shellfish allergy.” (Wai, et al. 2020, Gelis, et al. 2020). Squid, octopus, and cuttlefish are all included when referencing the common sources of shellfish allergies in the medical community, despite their not having an external shell. Rather than leave ambiguity, the Service is clarifying that the term shellfish includes cephalopods to align with the scientific nomenclature.

Comments concerning enforcement considerations: Some comments supported the proposed rule stating that it reduces ambiguity in the regulatory requirements and introduces consistency and clarity to the import/export process. These comments also contend that there is sufficient regulatory oversight from other Federal and State agencies upon harvest, as well as import, and this rule would eliminate duplicative efforts by the Service.

The Service received numerous comments raising concerns that the proposed rule creates gaps in regulatory oversight, both within the Service and between Federal agencies; weakens import controls including allowing a mechanism for tariff evasion; and hinders detection of illegal trade and IUU fishing of cephalopods. One comment stated that cephalopods are subject to growing legislative scrutiny and that this proposed rule could undermine efforts by the States and others to regulate this commodity.

Response: The Service appreciates the concerns raised regarding these enforcement considerations. The Service works closely with its Federal and State agency partners to ensure proper oversight and enforcement actions within our jurisdictions.

While cephalopods will no longer be subject to certain import/export requirements, the Service retains authority to inspect all shipments being imported into or exported from the United States and to ensure the legality of wildlife trade when there are concerns of potential illegal activities being conducted.

Comments concerning the effects on trade and the public: Multiple industry commenters expressed strong support for the proposed rule due to the reduced costs to the U.S. cephalopod industry which would in turn be passed on to consumers. Comments stated that U.S. businesses would benefit from the improved regulatory efficiency since other Federal and State agencies provide oversight of this trade. Commenters also stated that the U.S. cephalopod industry would benefit from streamlined import and export procedures with the removal of limitations on ports of entry and exit and delays due to waiting for clearance from the Service. One commenter supported the proposed rule stating that the current definition is confusing, costly, redundant, and misdirected. The commenter argues that the proposed rule's removal of an unnecessary burden from the industry would allow the FWS to better focus on mission priorities such as wildlife trade. Another commenter supports the proposed rule in order to correct an outdated classification. The commenter appreciates that the proposed rule would align the Service's definition with that of other federal agencies, with international trade designations, and the scientific taxonomy of Mollusca, and, finally, enhance global competitiveness for U.S. seafood producers. One commenter argued that the current definition disadvantages U.S. seafood producers relative to foreign competitors and the proposed rule would remove additional costs and logistical obstructions currently placed on U.S. producers by the U.S. government that hinder performance in international markets. One commenter supports the proposed rule and further comments on the lack of evidence that squid fisheries are more vulnerable to criminal or illegal activity than other types of fisheries included in the Service's current definition of shellfish.

The Service also received some comments expressing concern over the potential effects of this proposed rule on the U.S. seafood trade and impacts to consumers and the public. These comments argued that the proposed rule would negatively affect U.S. businesses by reducing accountability and consumer confidence in product sourcing. Additionally, some comments argued this rule could benefit foreign trade competitors over U.S. businesses by removing the oversight mechanisms that ensure foreign competitors are held to the same high standards as U.S. businesses. Some comments stated that local fishing communities could be negatively affected by competition from foreign sourced products. One commenter preferred the current definition of shellfish, urging the Service to reject taxonomic definitions and maintain existing physical criteria for the regulation which includes bivalves while excluding other members of Mollusca. Another commenter described concerns with the proposed rule's potential impact on the sustainable aquaculture industry.

Response: The Service appreciates the significant engagement from producers and from industry organizations and the supportive comments regarding the potential impact of the proposed rule. The Service values the concerns raised in some of the comments submitted, however, no one supplier or industry is being favored over another with this clarification of a definition. Rather all in the industry are subject to the same regulatory authority and, given that the Service retains the authority to inspect and ensure the legality of all wildlife shipments, and our close coordination with our Federal and State regulatory partners, proper oversight of this industry will be maintained. The question of whether a particular practice is sustainable falls outside the scope of this rulemaking, which is limited to revising the regulatory definition. Evaluating the sustainability of practices involves separate analyses and policy considerations that are not part of this definition change.

Comments concerning lack of analysis of and justification for the proposed rule:

The Service received multiple comments asserting that the proposed definition change is a significant change to the regulations and as such requires thorough consideration of the impact of the change to both industry and conservation to ensure it is in the best interests of the American public and businesses. These comments stated that a thorough economic analysis and examination of the extent of the impacts of this proposed rule are warranted. Additional comments stated that the proposed rule lacked sufficient justification for the need for the change.

Response: The Service acknowledges the concerns raised in these comments; however, the rule aligns with our statutory authority. Pursuant to 5 U.S.C. 605(b), in the publication of the proposed rule, the Service certified 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 rule clarifies a regulatory definition and reduces compliance obligations that should result in a cost savings for small businesses. This 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, thus, a detailed economic analysis is not necessary. Similarly, the Service has determined that the proposed rule provided sufficient justification to support the change to the shellfish definition at 50 CFR § 10.12.

Comments requesting the inclusion of additional species: The Service received several requests to include red and purple sea urchins and one request to include sea cucumbers in the revised definition to exempt them from Service import/export requirements as well.

Response: Red and purple sea urchins and sea cucumbers are not mollusks rather they are echinoderms. (*Oxford English Dictionary* (3d. ed., June 2026)). An echinoderm

is radially symmetrical unlike mollusks where symmetry is not considered under current literary definitions. (*Merriam-Webster's Collegiate Dictionary* (12th ed. 2025)). Additionally, Echinodermata phylum as a species frequently has fivefold radial symmetry, like the starfish, hardly comparable to commonly understood species of shellfish. (*Oxford English Dictionary* (3d. ed., June 2026)). Both sea urchins and sea cucumbers are more closely related to sand dollars and sea stars than to squid, lobster, or octopus. They differ significantly from the members of Mollusca. Sea urchins and sea cucumbers lack the mantle and muscular foot that characterizes most mollusks, even when the external shell is absent. Many mollusks are carnivorous, herbivorous or filter feeders with specialized feeding structures while the echinoderms are detritivores and consume sediment and organic debris, or floating particles. Finally, sea urchins and sea cucumbers have a unique water vascular system that all the members of Mollusca lack. Therefore, FWS declines to include sea cucumbers and sea urchins in the definition of shellfish.

Required Determinations

Executive Orders 12866 and 13563 (Regulatory Planning and Review)

E.O. 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 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 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).

This final rule clarifies a regulatory definition and is deregulatory in nature and should result in cost savings for small businesses. This final rule does not establish new, and reduces existing, compliance requirements, reporting obligations, or performance standards to the benefit of small entities, including small businesses, small nonprofit organizations, or small governmental jurisdictions as defined in 5 U.S.C. 601. However, we do not expect this potential effect to rise to the level of a significant economic effect nor affect a substantial number of small entities. Therefore, pursuant to 5 U.S.C. 605(b), the Service hereby certifies that this rule will not have a significant economic effect on a substantial number of small entities.

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 the Convention on International Trade in Endangered Species (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 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 rule will not result in any combined expenditure by State, local, or Tribal governments.

Takings (E.O. 12630)

Under E.O. 12630, this rule does not have significant takings implications. This 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 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 rule does not have significant takings implications.

Federalism (E.O. 13132)

Under E.O. 13132, this 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 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.)

We have analyzed this rule in accordance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.), the Department of the Interior (DOI) NEPA

implementing regulations at 43 CFR 46.210, and the DOI Handbook of National Environmental Policy Act Implementing Procedures (516 DM 1).

We have determined that there will be no significant individual or cumulative effect on the environment with the revision of the definition of “shellfish” in 50 CFR §10.12 and have applied the Department of the Interior categorical exclusion for “Policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case” (43 CFR § 46.210(i)). We have also determined the extraordinary circumstances listed in 43 CFR § 46.215 do not apply to the direct effects of this rule.

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

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 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.

List of Subjects in 50 CFR Part 10

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

For the reasons set forth in the preamble, we 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) Phylum Mollusca, including but not limited to, oysters, clams, squid, octopus, or cuttlefish; and

(2) Order Decapoda, including, but not limited to, 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.

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