



Foreign Species and the U.S. Endangered Species Act

The U.S. Endangered Species Act (Act) was passed to prevent the extinction of listed native and foreign animals and plants by providing measures to help alleviate the loss of species and their habitats. With some exceptions, the Act prohibits certain activities with these protected (listed) species unless authorized by a permit from the U.S. Fish and Wildlife Service (Service).

An “endangered species” is an animal or plant listed by regulation as being in danger of extinction throughout all or a significant portion of its range. A “threatened species” is any animal or plant likely to become endangered in the foreseeable future throughout all or a significant portion of its range.

What activities are prohibited?

Without a permit or authorization, it is unlawful for any person subject to the jurisdiction of the United States to:

- Take (meaning to harm, harass, pursue, hunt, shoot, wound, kill, trap, capture or collect, or attempt to engage in any such conduct) within the United States and its territorial seas or upon the high seas;
- Deliver, receive, carry, transport or ship in interstate or foreign commerce in the course of a commercial activity;
- Sell or offer for sale in interstate or foreign commerce;
- Import or export; or
- Possess, ship, deliver, carry, transport, sell or receive unlawfully taken wildlife.

It would also be a violation of the Act if you were attempting to commit any prohibited activity or getting someone else to commit any prohibited activity.

What activities require permits?

A permit is required from the Division of Management Authority (DMA) to import or export all listed species, both native and foreign; to sell or offer for sale in interstate and foreign commerce foreign animals and plants; and to take (as defined above) foreign wildlife within the United States. For other activities with native species, contact the Endangered Species Program at <http://endangered.fws.gov/permits/index.html>.

What are the different types of permits issued by DMA?

Endangered species permits: issued to authorize scientific research or activities that would enhance the propagation or survival of the species.

Threatened species permits: issued to authorize the same activities listed above, as well as: zoological, horticultural,

or botanical exhibition; educational activities; or other activities that are consistent with the purposes of the Act.

Captive-bred wildlife registration: a person or institution could register with the Service to buy and sell within the United States live, foreign endangered or threatened animals which were captive born in the United States in order to enhance the propagation of a listed species, provided that both parties are registered (permitted) for the same species. A separate permit is needed to import or export such species. For more information on captive-bred wildlife registration, see the fact sheet entitled, “Captive-bred Wildlife Registration under the U.S. Endangered Species Act” (<http://www.fws.gov/international/pdf/cbwregistration.pdf>)

What about pets?

While the Service discourages keeping listed species as pets, permits are not required to keep or breed endangered or threatened animals as pets provided that you are not attempting to carry out any prohibited activities. The purpose of the Act is to conserve and protect listed species and recover wild populations. While not illegal, using protected species as pets is not consistent with the purposes of the Act

Where do I apply for a permit?

Permit applications submitted to DMA may be obtained from the International Affairs section of the Service’s website (<http://www.fws.gov/forms/display.cfm?number1=200>) or by contacting us directly. In most cases, an application processing fee is required and applicants should allow up to 60 days or longer for processing (this processing time could include a 30-day comment period for endangered species).

What Situations Are Exempt from the Prohibitions of the Act?



Frank Kohn/USFWS

Grevy's zebra, threatened

In certain situations, listed species may be exempt for the prohibitions listed above.

Pre-Act: Species held in captivity or in a controlled environment on (a) December 28, 1973, or (b) the date of listing (published in the Federal Register and the Service's website), whichever is later, are exempt, provided such holding or any subsequent holding or use of the specimen was not in the course of a commercial activity (any activity that is intended for profit or gain). An affidavit and supporting material documenting "pre-Act" status must accompany the shipment of listed species. A "pre-Act" exemption does not apply to wildlife, including parts and products, offered for sale. Any endangered or threatened specimens born in captivity from pre-Act parents are fully protected and are not considered pre-Act.

Antiques: Items would be considered an "antique", including scrimshaw, if there is documentation that shows that the article is at least 100 years old and has not been repaired or modified with any part of an endangered or threatened species since December 28, 1973. Antique items are not subject to the prohibitions. If the antique contains any species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), any imports or exports must be accompanied by a pre-Convention Certificate regardless of age.

Margay, endangered



Brian Gratwicke CC BY 2.0

Special Rules: If a species is listed as threatened, the Service could establish "special rules" designating unique situations where otherwise prohibited activities could be allowed. Some species covered by special rules include beluga sturgeon, African elephant, and leopard.

Intrastate Commerce: Commercial activities involving legally acquired endangered or threatened species that take place entirely within one State by residents of that State are not prohibited by the Act. However, many States have their own laws which regulate activities with protected species. Contact your State agency before undertaking activities with endangered or threatened wildlife and plants.

Offer for Sale: Endangered and threatened species may be advertised for sale, even across State lines, provided the advertisement states that no sale may be consummated until a permit for interstate commerce has been obtained from the Service.

Loans and Gifts: Lawfully taken and held endangered and threatened species may be shipped interstate as a bona fide gift or loan if there is no barter, credit, other form of compensation, or intent to profit or gain. A standard breeding loan, where animals are exchanged for conservation breeding purposes, would not require a permit, even if some offspring are returned to the lender of a breeding animal. Documentation of such an activity should accompany the shipment.

Hybrids: Hybrids of animals or plants bred or propagated in captivity (a cross between two different species) are exempt from the prohibitions of the Act. Where an animal or plant is listed at the species level, every member of that species is protected under the Act, whether the specimen is identifiable as a member of a particular subspecies, and whether the animal or plant has parents of two different subspecies. For example, tigers are listed at the species level, so offspring of two different subspecies of tigers are protected by the Act. While not covered by the Act, the Service considers the intentional hybridization of captive endangered or threatened species as contrary to the purposes of the Act, unless current science shows that cross breeding is necessary to keep genetically viable populations. It is recommended that breeding records be maintained to show parentage and hybrid status. Other laws such as the

Migratory Bird Treaty Act (MBTA) and CITES consider hybrids protected.

Raptors: Prohibitions under the Act do not apply to any endangered or threatened raptors (except the bald eagle) legally held in captivity on November 10, 1978, or to any progeny of such birds provided they are possessed and banded under the terms of a MBTA permit and are identified in the earliest annual report required by the permit.

Seeds from Artificially Propagated Threatened Plants: Seeds of artificially cultivated threatened plants do not require a permit provided a statement that the seeds are of "cultivated origin" accompany the seeds or their container during the course of any activity.

What other office issues permits for endangered or threatened Species?

The National Marine Fisheries Service (NMFS) has jurisdiction over certain listed aquatic species, including marine species such as whales and seals. NMFS also has jurisdiction for sea turtles while in the water and the Service for sea turtles while on land. Call NMFS at (301) 713-2289 or visit www.nmfs.gov.

What other laws apply?

Depending on the species involved, other laws that provide additional protections may include, CITES, the MBTA, the Bald and Golden Eagle Protection Act, the Wild Bird Conservation Act, the Marine Mammal Protection Act, and the Lacey Act. If you are unsure how a species is protected, please contact the Service directly.

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December 2012

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