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93d CONGRESS  
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## H. R. 37

[Report No. 93-412]

## IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 1973

Mr. DINGELL (for himself, Mr. CLARK, Mr. MILLARD, Mr. MOSNER, Mr. DOWNING, Mr. RUPPE, Mr. GOODLING, Mr. BRAY, Mr. STODOLSKY, Mr. MURPHY of New York, Mr. JONES of North Carolina, Mr. BIAGGI, Mr. ANDERSON of California, Mr. KYROS, Mr. McCLOSKEY, Mr. STEELE, Mr. DU PONT, Mr. TRENKLE, Mr. JAMES V. STANTON, Mr. MERVOLTE, Mr. NEZDI, Mr. O'HARA, Mr. WILLIAM D. FORD, Mrs. GERRITSEN, and Mr. MOSS) introduced the following bill, which was referred to the Committee on Merchant Marine and Fisheries

JUNE 27, 1973

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

## A BILL

To provide for the conservation, protection, and propagation of species or subspecies of fish and wildlife that are threatened with extinction or likely within the foreseeable future to become threatened with extinction, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representatives*
- 2 *of the United States of America in Congress assembled,*
- 3 *That this Act may be cited as the "Endangered Species*
- 4 *Conservation Act of 1973";*
- 5 *SECTION 2. PURPOSES; AND POLICY*
- 6 *Sec. 2. (a) The Congress finds and declares that one*

- 1 of the unfortunate consequences of growth and development
- 2 in the United States and elsewhere has been the extermin-
- 3 ation of some species or subspecies of fish and wildlife; that
- 4 serious losses in species of wild animals with educational,
- 5 historical, recreational, and scientific value have occurred
- 6 and are occurring; that the United States has pledged it-
- 7 self, pursuant to migratory bird treaties with Canada and
- 8 Mexico, the Migratory and Endangered Bird Treaty with
- 9 Japan, the Convention on Nature Protection and Wildlife
- 10 Preservation in the Western Hemisphere, the International
- 11 Convention for the Northwest Atlantic Fisheries, the Inter-
- 12 national Convention for the High Seas Fisheries of the
- 13 North Pacific Ocean, and other international agreements,
- 14 to conserve and protect, where practicable, the various
- 15 species of fish and wildlife that are threatened with extinc-
- 16 tion; and that the conservation, protection, restoration, or
- 17 propagation of such species will inure to the benefit of all
- 18 citizens:
- 19 (b) The purposes of this Act are to provide a program
- 20 for the conservation, protection, restoration, or propagation
- 21 of species and subspecies of fish and wildlife that are threat-
- 22 ened with extinction or are likely within the foreseeable
- 23 future to become threatened with extinction:
- 24 (c) It is further declared to be the policy of Congress

1 that all Federal departments and agencies shall seek to pre-  
 2 vent species or subspecies of fish and wildlife that are threat-  
 3 ened with extinction or are likely within the foreseeable  
 4 future to become threatened with extinction, and, wherever  
 5 practicable, shall utilize their authorities in furtherance of  
 6 the purpose of this Act.

~~DEFINITIONS~~

8 ~~SEC. 2. For the purposes of this Act—~~

9 ~~(1) The term "Federal lands" means all lands or~~  
 10 ~~interests therein over which Congress has legislative au-~~  
 11 ~~thority under article IV, section 2, clause 2 of the~~  
 12 ~~United States Constitution, including, without limitation,~~  
 13 ~~lands enumerated in section 1400 of title 43, United~~  
 14 ~~States Code—~~

15 ~~(2) The term "fish" means any fish or any part,~~  
 16 ~~product, egg, or offspring thereof, or the dead body or~~  
 17 ~~parts thereof.~~

18 ~~(3) The term "import" means to bring into the~~  
 19 ~~territorial limits of the United States and includes, with-~~  
 20 ~~out limitation, entry into a foreign trade zone, and trans-~~  
 21 ~~shipment through any portion of the United States~~  
 22 ~~without customs entry—~~

23 ~~(4) The term "person" means (A) any private~~  
 24 ~~person or entity, and (B) any officer, employee, agent,~~

1 department, or instrumentality of the Federal Govern-  
 2 ment, of any State or political subdivision thereof, or of  
 3 any foreign Government.

4 ~~(5) The term "Secretary" means the Secretary of~~  
 5 ~~the Interior and the Secretary of Commerce with re-~~  
 6 ~~spect to functions and responsibilities under this Act~~  
 7 ~~relating to fish and wildlife, consistent with such~~  
 8 ~~program responsibilities heretofore as are vested pursuant~~  
 9 ~~to the provisions of Reorganization Plan Numbered 4 of~~  
 10 ~~1970—~~

11 ~~(6) The term "take" means (A) with respect to~~  
 12 ~~fish or wildlife, to threaten, harass, hunt, capture, or kill,~~  
 13 ~~or attempt to threaten, harass, hunt, capture, or kill; and~~  
 14 ~~(B) with respect to fauna, to collect, sever, remove, or~~  
 15 ~~otherwise damage in any manner, or to attempt to collect,~~  
 16 ~~sever, remove, or otherwise damage in any manner—~~

17 ~~(7) The term "United States" includes the sev-~~  
 18 ~~eral States, the District of Columbia, the Commonwealth~~  
 19 ~~of Puerto Rico, the Canal Zone, the possessions of the~~  
 20 ~~United States, and the Trust Territory of the Pacific~~  
 21 ~~Islands.~~

22 ~~(8) The term "wildlife" means any wild mammal,~~  
 23 ~~game or nongame migratory bird, wild bird, amphibian,~~  
 24 ~~reptile, mollusk, crustacean, or other animal, or any part,~~

1 ~~precludes~~ egg, or offspring thereof, or the dead body or  
 2 ~~parts thereof, including migratory, nonmigratory and~~  
 3 ~~endangered birds for which protection is also afforded~~  
 4 ~~by treaty or other international agreement.~~  
 5 ~~DETERMINATION OF ENDANGERED SPECIES~~  
 6 ~~SEC. 4. (a) A species or subspecies of fish or wildlife~~  
 7 ~~shall be regarded as an endangered species whenever the~~  
 8 ~~Secretary by regulation determines, based on the best scien-~~  
 9 ~~tific and commercial data available to him and after consulta-~~  
 10 ~~tion as appropriate, with the affected States and, in coopera-~~  
 11 ~~tion with the Secretary of State, the country or countries in~~  
 12 ~~which such fish and wildlife are normally found or whose~~  
 13 ~~citizens harvest the same on the high seas, and with inter-~~  
 14 ~~ested persons and organizations, and other interested Federal~~  
 15 ~~agencies, that the continued existence of such species or sub-~~  
 16 ~~species of fish or wildlife throughout all or a significant por-~~  
 17 ~~tion of its habitat or range, is either presently threatened~~  
 18 ~~with extinction or will likely within the foreseeable future~~  
 19 ~~become threatened with extinction, due to any of the follow-~~  
 20 ~~ing factors:~~  
 21 ~~(1) the present or threatened destruction, modifica-~~  
 22 ~~tion, or curtailment of its habitat or range;~~  
 23 ~~(2) overutilization for commercial, sporting, sci-~~  
 24 ~~entific, or educational purposes;~~

1 ~~species or subspecies of fish or wildlife proposed to be re-~~  
 2 ~~moved from or added to the list, but only if he finds and~~  
 3 ~~publishes his finding that such person has presented sub-~~  
 4 ~~stantial evidence to warrant such a review.~~  
 5 ~~LAND ACQUISITION AND AGENCY COMPLIANCE~~  
 6 ~~SEC. 5. (a) The Secretary shall utilize the land ac-~~  
 7 ~~quisition and other authorities of the Migratory Bird Con-~~  
 8 ~~servation Act, as amended, the Fish and Wildlife Act of~~  
 9 ~~1956, as amended, and the Fish and Wildlife Coordination~~  
 10 ~~Act, as appropriate, to carry out a program in the United~~  
 11 ~~States of conserving, protecting, restoring, or propagating~~  
 12 ~~those species and subspecies of fish and wildlife that he lists~~  
 13 ~~as endangered species pursuant to section 4 of this Act.~~  
 14 ~~(b) In addition to the land acquisition authorities other-~~  
 15 ~~wise available to him, the Secretary is hereby authorized to~~  
 16 ~~acquire by purchase, donation, or otherwise, lands or inter-~~  
 17 ~~ests therein needed to carry out the purposes of this Act re-~~  
 18 ~~lating to the conservation, protection, restoration, or propa-~~  
 19 ~~gation of those species or subspecies of fish and wildlife that~~  
 20 ~~he lists as endangered species pursuant to section 4 of this~~  
 21 ~~Act.~~  
 22 ~~(c) Funds made available pursuant to the Land and~~  
 23 ~~Water Conservation Fund Act of 1965 as amended may~~  
 24 ~~be used for the purpose of acquiring lands, waters, or inter-~~  
 25 ~~ests therein pursuant to this section that are needed for~~

1 the purpose of conserving, protecting, restoring, or prepa-  
 2 rating those species or subspecies of fish and wildlife, that  
 3 he lists as endangered species pursuant to section 4 of this  
 4 Act.

5 (d) The Secretary shall review other programs admin-  
 6 istered by him and, to the extent practicable, utilize such  
 7 programs in furtherance of the purposes of this Act. All other  
 8 Federal departments and agencies shall, in consultation with  
 9 and with the assistance of the Secretary, utilize, wherever  
 10 practicable, their authorities in furtherance of the purposes  
 11 of this Act by carrying out programs for the protection  
 12 of endangered species and by taking such actions as may  
 13 be necessary to insure that actions authorized, funded, regu-  
 14 lated, or administered by them do not jeopardize the contin-  
 15 ued existence of endangered species or result in destruction or  
 16 modification of critical habitat of such species.

17 (e) Subject to the provisions of section 1415 of the  
 18 Supplemental Appropriation Act, 1952 (21 U.S.C. 724),  
 19 the President is authorized, as a demonstration of the com-  
 20 mitment of the United States to the worldwide protection of  
 21 endangered species of fish and wildlife, to use foreign cur-  
 22 rency accounts to the United States Government under  
 23 the Agricultural Trade Development and Assistance Act of  
 24 1954 or any other law to provide to any foreign country  
 25 (with its consent) assistance in the development and man-

1 agreement of programs in that country which the Secretary  
 2 determines to be necessary or useful for the conservation  
 3 protection, restoration, or propagation of any species or  
 4 subspecies of fish and wildlife listed by the Secretary pursuant  
 5 to section 4 of this Act. The President shall provide assist-  
 6 ance (which includes, but is not limited to, the acquisition,  
 7 by lease or otherwise, of lands, waters, or interests therein)  
 8 to foreign countries under this section under such terms and  
 9 conditions as he deems appropriate.

10 (f) In carrying out the provisions of this Act, the Sec-  
 11 retary, through the Secretary of State, shall encourage  
 12 foreign countries to provide protection to endangered species  
 13 or subspecies of fish or wildlife, to take measures to prevent  
 14 any fish or wildlife from becoming endangered, and he shall,  
 15 through the Secretary of State, encourage bilateral and  
 16 multilateral agreements with such countries for the con-  
 17 servation and propagation of fish and wildlife. The  
 18 Secretary is authorized to assign or otherwise make available  
 19 any officer or employee of his department for the purpose of  
 20 cooperating with foreign countries and international organi-  
 21 zations in developing personnel resources and programs  
 22 which promote conservation of fish or wildlife including (1)  
 23 educational training of United States and foreign personnel  
 24 here or abroad, in the subjects of fish and wildlife manage-  
 25 ment, research, and law enforcement; and (2) rendering

1 professional assistance abroad in such matters. The Secre-  
 2 tary is also authorized to conduct or cause to be conducted  
 3 such law enforcement investigations and research abroad as  
 4 he deems necessary to carry out the obligations imposed  
 5 upon him by this Act.

~~COOPERATION WITH OTHER STATES~~

6  
 7 ~~Sec. 6. (a) In carrying out the program authorized~~  
 8 ~~by this Act, the Secretary shall cooperate to the maximum~~  
 9 ~~extent practicable with the several States. Such cooperation~~  
 10 ~~shall include consultation before the acquisition of any land~~  
 11 ~~for the purpose of conserving, protecting, restoring, or prop-~~  
 12 ~~agating any endangered species.~~

13 ~~(b) The Secretary may enter into agreements with the~~  
 14 ~~States for the administration and management of any area~~  
 15 ~~established for the conservation, protection, restoration, or~~  
 16 ~~propagation of endangered species. Any revenues derived~~  
 17 ~~from the administration of such areas under these agree-~~  
 18 ~~ments shall be subject to the provisions of section 401 of~~  
 19 ~~the Act of June 15, 1935 (49 Stat. 383), as amended (16~~  
 20 ~~U.S.C. 715a).~~

21 ~~(c) The Secretary may delegate to a State the authority~~  
 22 ~~to regulate the taking by any person of endangered species or~~  
 23 ~~subspecies of resident fish and wildlife when he determines~~  
 24 ~~that such State maintains an adequate and active program~~

1 consistent with the policies and purposes of this Act, to man-  
 2 age and protect such endangered species in accordance with  
 3 criteria issued by the Secretary.

4 ~~(d) Any action taken by the Secretary under this section~~  
 5 ~~shall be subject to his periodic and continual review at no~~  
 6 ~~greater than annual intervals. Such review shall include the~~  
 7 ~~consideration of comment received from interested persons.~~  
 8 ~~(e) Nothing in this Act, or any amendment made by~~  
 9 ~~this Act, shall be construed as superseding or limiting the~~  
 10 ~~power of any State to enact legislation more restrictive than~~  
 11 ~~the provisions of this Act for the protection and conservation~~

12 ~~of fish and wildlife, including the regulation or prohibition of~~  
 13 ~~the retail sale of specimens or of products processed or man-~~  
 14 ~~ufactured from the specimens of fish and wildlife, whether~~  
 15 ~~such specimens are alive or dead.~~

16 ~~(f) The Secretary of the Interior shall promptly under-~~  
 17 ~~take an investigation and study regarding the functions and~~  
 18 ~~responsibilities which the States should have with respect to~~  
 19 ~~the management and protection of endangered species of fish~~  
 20 ~~and wildlife. The Secretary of the Interior shall report the~~  
 21 ~~results of the investigation and study to Congress within one~~  
 22 ~~year after the date of the enactment of this Act, and such~~  
 23 ~~report may include such recommendations as he may have~~  
 24 ~~regarding the extent to, and manner in, which the Federal~~

1 Government should assist the States in establishing and im-  
 2 plementing management and protection programs for on-  
 3 dangered species.

4 ~~NOT RECORDED IN THE PROHIBITED ACTS~~

5 ~~SEC. 7. (a) Notwithstanding any other Act of Congress~~

6 ~~or regulation issued pursuant thereto, and except as other-~~

7 ~~wise provided in section 9 of this Act, any person who~~

8 ~~(A) imports into or exports from the United~~

9 ~~States, receives, or causes to be so imported, received,~~

10 ~~or exports; or~~

11 ~~(B) takes or causes to be taken within the United~~

12 ~~States, the territorial sea of the United States, Federal~~

13 ~~lands, or upon the high seas; or~~

14 ~~(C) ships, carries, or receives by any means in~~

15 ~~interstate commerce.~~

16 ~~any species or subspecies of fish or wildlife which the Sec-~~

17 ~~retary has listed as an endangered species threatened with~~

18 ~~extinction pursuant to section 4 of this Act shall be punished~~

19 ~~in accordance with the provisions of section 9 of this Act.~~

20 ~~(b) Whenever the Secretary pursuant to section 4 of~~

21 ~~this Act lists a species or subspecies as an endangered species~~

22 ~~which is likely within the foreseeable future to become~~

23 ~~threatened with extinction, he shall issue such regulations~~

24 ~~as he deems necessary or advisable to provide for the con-~~

25 ~~servation, protection, restoration, or propagation of such~~

1 species or subspecies, including regulations subjecting to  
 2 punishment in accordance with section 9 of this Act any  
 3 person who—

4 (1) imports into or exports from the United States;

5 receives, or causes to be so imported, received, or ex-

6 ported; or

7 (2) takes or causes to be taken within the United

8 States, the territorial sea of the United States, Federal

9 lands, or upon the high seas; or

10 (3) ships, carries, or receives by any means in

11 interstate commerce.

12 any such species or subspecies of fish or wildlife likely

13 within the foreseeable future to become threatened with

14 extinction.

15 (c) For the purpose of facilitating enforcement of this

16 Act, the Secretary may from time to time, by regulation, ex-

17 tend the protection of this section, to the extent he deems it

18 advisable, to any species or subspecies of fish or wildlife

19 which is not listed as an endangered species, but which so-

20 closely resembles in appearance, at the point in question,

21 a species or subspecies of fish or wildlife which has been

22 listed as endangered, that substantial difficulty is posed to

23 enforcement personnel in attempting to differentiate between

24 the endangered and nonendangered species or subspecies of

1 fish or wildlife and this differently poses an additional threat  
2 to the endangered species or subspecies.

### EXEMPTIONS

3  
4 Sec. 8. (a) The Secretary may permit, under such  
5 terms and conditions as he may prescribe, the importation,  
6 taking or the transportation in interstate commerce of any  
7 species or subspecies of fish or wildlife listed as an en-  
8 dangered species threatened with extinction for scientific  
9 purposes, and for the propagation of such fish and wildlife  
10 in captivity for preservation purposes, but only if he finds  
11 that such importation, exportation, taking, transportation in  
12 interstate commerce, or projected use will not adversely af-  
13 fect the regenerative capacity of such specimen or of such  
14 species or subspecies in a significant portion of its range or  
15 habitat or otherwise affect the survival of the wild population  
16 of such species.

17 (b) In order to minimize undue economic hardship to  
18 any person importing, exporting, taking, or transporting in  
19 interstate commerce any species or subspecies of fish or  
20 wildlife which is listed as an endangered species pursuant  
21 to section 4 of this Act under any contract entered into prior  
22 to the date of original publication of such listing in the Fed-  
23 eral Register, the Secretary, upon such person filing an  
24 application with him and upon filing such information as  
25 the Secretary may require showing, to his satisfaction, such

1 hardship, may permit such person to import, export, take,  
2 or transport such species or subspecies in such quantities and  
3 for such periods, not to exceed one year, as he determines to  
4 be appropriate.

### PENALTIES AND ENFORCEMENT

5  
6 Sec. 9. (a) (1) Any person who violates any provi-  
7 sion of this Act or of any regulation or permit issued there-  
8 under, other than a person who commits a violation the  
9 penalty for which is prescribed by subsection (b) of this  
10 section, shall be assessed a civil penalty by the Secretary  
11 of not more than \$10,000 for each such violation. No  
12 penalty shall be assessed unless such person is given notice  
13 and opportunity for a hearing with respect to such viola-  
14 tion. Each violation shall be a separate offense. Any such  
15 civil penalty may be compromised by the Secretary. Upon  
16 any failure to pay the penalty assessed under this para-  
17 graph, the Secretary may request the Attorney General  
18 to institute a civil action in a district court of the United  
19 States for any district in which such person is found or  
20 resides or transacts business to collect the penalty, and  
21 such court shall have jurisdiction to hear and decide any  
22 such action. In the case of Guam such actions may be  
23 brought in the district court of Guam; in the case of the  
24 Virgin Islands such actions may be brought in the district  
25 court of the Virgin Islands, and in the case of American

1 ~~Such actions may be brought in the District Court~~  
 2 ~~of the United States for the District of Hawaii and such~~  
 3 ~~courts shall have jurisdiction of such actions. In hearing~~  
 4 ~~such action, the court shall sustain the Secretary's action~~  
 5 ~~if such action is supported by substantial evidence.~~

6 ~~(2) Whenever any property is seized pursuant to sub-~~  
 7 ~~section (e) of this section, the Secretary shall move to dis-~~  
 8 ~~pose of the civil penalty proceedings pursuant to paragraph~~  
 9 ~~(1) of this subsection as expeditiously as possible. Upon~~  
 10 ~~the assessment and collection of a civil penalty pursuant to~~  
 11 ~~paragraph (1) of this subsection, any property so seized~~  
 12 ~~may be proceeded against in any court of competent~~  
 13 ~~jurisdiction and forfeited. Fish or wildlife so forfeited~~  
 14 ~~shall be conveyed to the Secretary for disposition by him~~  
 15 ~~in such a manner as he deems appropriate. If, with respect~~  
 16 ~~to any such property so seized, no compromise forfeiture~~  
 17 ~~has been relieved or no action is commenced to obtain the~~  
 18 ~~forfeiture of such fish, wildlife, property, or item within~~  
 19 ~~thirty days following the completion of proceedings involv-~~  
 20 ~~ing an assessment and collection of a civil penalty, such~~  
 21 ~~property shall be immediately returned to the owner or the~~  
 22 ~~consignee in accordance with regulations promulgated by~~  
 23 ~~the Secretary.~~

24 ~~(3) Proceedings for the assessment of civil penalties~~  
 25 ~~pursuant to paragraph (1) of this subsection shall be con-~~

1 ~~ducted in accordance with section 554 of title 5. The Secre-~~  
 2 ~~tary may issue subpoenas for the attendance and testimony~~  
 3 ~~of witnesses and the production of relevant papers, books,~~  
 4 ~~and documents, and administer oaths. Witnesses summoned~~  
 5 ~~shall be paid the same fees and mileage that are paid wit-~~  
 6 ~~nesses in the courts of the United States. In case of con-~~  
 7 ~~tumacy or refusal to obey a subpoena served upon any per-~~  
 8 ~~son pursuant to this paragraph, the district court of the~~  
 9 ~~United States for any district in which such person is found~~  
 10 ~~or resides or transacts business, upon application by the~~  
 11 ~~United States and after notice to such person, shall have~~  
 12 ~~jurisdiction to issue an order requiring such person to ap-~~  
 13 ~~pear and give testimony before the Secretary or to appear~~  
 14 ~~and produce documents before the Secretary, or both, and~~  
 15 ~~any failure to obey such order of the court may be punished~~  
 16 ~~by such court as a contempt thereof.~~

17 ~~(b) Any person who knowingly violates any provision~~  
 18 ~~of this Act or of any regulation or permit issued there-~~  
 19 ~~under, shall, upon conviction, be fined not more than \$20,~~  
 20 ~~000 or imprisoned for not more than one year, or both, and~~  
 21 ~~any Federal hunting or fishing licenses, permits, or stamps~~  
 22 ~~may be revoked or withheld for a period of up to five years.~~  
 23 ~~Upon conviction, (1) any fish or wildlife seized shall be for-~~  
 24 ~~feited to the Secretary for disposal by him in such manner as~~  
 25 ~~he deems appropriate, and (2) any other property seized~~

1 pursuant to subsection (e) of this section may, in the dis-  
 2 cretion of the court, commissioner, or magistrate, be forfeited  
 3 to the United States or otherwise disposed of. If no convice-  
 4 tion results from any such alleged violation, such property  
 5 so seized in connection therewith shall be immediately re-  
 6 turned to the owner or consignee in accordance with regula-  
 7 tions promulgated by the Secretary, unless the Secretary,  
 8 within thirty days following the final disposition of the case  
 9 involving such violation, commences proceedings under sub-  
 10 section (a) of this section.

11 (e) (1) The provisions of sections 7 and 8 of this  
 12 Act and any regulations or permits issued pursuant thereto,  
 13 or pursuant to subsection (d) or (e) of this section, shall be  
 14 enforced by the Secretary, the Secretary of the Treasury,  
 15 or the Secretary of the Department in which the Coast  
 16 Guard is operating, or all such Secretaries. Each such Sec-  
 17 retary may utilize, by agreement, with or without reimburse-  
 18 ment, the personnel, services, and facilities of any other  
 19 Federal agency or any State agency.

20 (2) Any authorized agent of the Department of the  
 21 Interior, the Department of Commerce, or the Department  
 22 of the Treasury may, with or without a warrant, arrest any  
 23 person who such agent has probable cause to believe is  
 24 knowingly violating this Act, in his presence or view, or any  
 25 regulation or permit issued thereunder, the penalty for which

1 is provided under subsection (b) of this section. An agent  
 2 who has made an arrest of a person in connection with any  
 3 such violation may search such person at the time of his  
 4 arrest and seize any property taken, used, or possessed in  
 5 connection with any such violation.

6 (2) Any authorized agent of the Department of the  
 7 Interior, the Department of Commerce, or the Department  
 8 of the Treasury shall have authority to search and seize with  
 9 or without a warrant, as provided by the customs laws and by  
 10 the law relating to search and seizure. Any such officer or  
 11 agent is authorized to execute warrants to search for and  
 12 seize any property, including, for the purposes of this sec-  
 13 tion, any fish, wildlife, aircraft, boat, or other conveyance,  
 14 weapon, business records, shipping documents, or other items  
 15 which have been taken, used, or possessed in connection  
 16 with the violation of any section, regulation, or permit with  
 17 respect to which a civil or criminal penalty may be assessed,  
 18 pursuant to subsection (a) or (b) of this section. Any prop-  
 19 erty seized pursuant to this section shall be held by any agent  
 20 authorized by the Secretary or the Secretary of the Treasury,  
 21 or by a United States marshal, pending disposition of pro-  
 22 ceedings under subsection (a) or (b) of this section, except  
 23 that either Secretary may, in lieu of holding such property,  
 24 either (1) permit a bond or other satisfactory surety to be  
 25 posted, or (2) place the fish or wildlife in the custody of

1 such person as he shall designate. Upon the imposition of  
 2 a civil or criminal penalty, or a forfeiture, the costs to the  
 3 Government of transfer, board, and handling, including the  
 4 cost of investigations at a nondesignated port of entry, shall  
 5 be payable to the account of the Secretary. The owner or  
 6 ownerless of any property so seized shall, as soon as prac-  
 7 ticable following such seizure, be notified of the fact in  
 8 accordance with regulations established by the Secretary.

9 (d) The Secretary may request the Attorney General  
 10 to bring appropriate action to prevent threatened violations  
 11 of this Act, or of any regulations or orders promulgated  
 12 pursuant thereto.

13 (e) For the purposes of facilitating the enforcement  
 14 of this Act and reducing the costs thereof, the Secretary,  
 15 with the approval of the Secretary of the Treasury, shall,  
 16 after notice and an opportunity for a public hearing, from  
 17 time to time designate, by regulation, any port or ports  
 18 in the United States for the importation of fish and wild-  
 19 life (other than shellfish and fishery products) into the  
 20 United States. The importation of such fish or wildlife into  
 21 any port in the United States, except those so designated,  
 22 shall be prohibited after the effective date of such designa-  
 23 tion, except that the Secretary, under such terms and  
 24 conditions as he may prescribe, may permit importation  
 25 at nondesignated ports in the interest of the health or

1 safety of the fish or wildlife. Such regulations may provide  
 2 other exceptions to such prohibition if the Secretary, in  
 3 his discretion, deems it appropriate and consistent with the  
 4 purpose of this subsection.

5 (f) The Secretary is authorized to promulgate such  
 6 regulations as may be appropriate to carry out the purposes  
 7 of this Act, and the Secretaries of the Treasury and the  
 8 department in which the Coast Guard is operating are  
 9 authorized to promulgate such regulations as may be appro-  
 10 priate to the exercise of responsibilities under subsection  
 11 (e) (1) of this section.

12 (g) (1) Any person who engages to any extent in busi-  
 13 ness as an importer of fish and wildlife must register with the  
 14 Secretary of the Treasury his name and the address of each  
 15 place of business at which, and all trade names under which,  
 16 he conducts such business.

17 (2) Any person required to register with the Secretary  
 18 of the Treasury under paragraph (1) of this subsection  
 19 shall—

20 (A) keep such records as will fully and correctly  
 21 disclose each importation of fish and wildlife made by  
 22 him and the subsequent disposition made by him with  
 23 respect to such fish and wildlife; and

24 (B) at all reasonable times upon notice by a duly  
 25 authorized representative of the Secretary, afford such

1 representative access to his places of business an oper-  
 2 tunity to examine his inventory of imported fish and  
 3 wildlife and the records required to be kept under  
 4 subparagraph (A) of this paragraph, and to copy  
 5 such records.

6 (2) The Secretary of the Treasury shall prescribe such  
 7 regulations as are necessary and appropriate to carry out  
 8 the purposes of this subsection.

9 INTERNATIONAL AND INTERGOVERNMENTAL COOPERATION  
 10 Sec. 10. (a) (1) In carrying out the provisions of  
 11 this Act, the Secretary, through the Secretary of State,  
 12 shall encourage foreign countries to provide protection to  
 13 endangered species or subspecies of fish and wildlife, to take  
 14 measures to prevent any fish or wildlife from becoming en-  
 15 dangered, and shall cooperate with such countries in provid-  
 16 ing technical assistance in developing and carrying out pro-  
 17 grams to provide such protection, and shall, through the  
 18 Secretary of State, encourage bilateral and multilateral agree-  
 19 ments with such countries for the protection, conservation,  
 20 or propagation of fish and wildlife. The Secretary shall also  
 21 encourage persons, taking directly or indirectly fish or wild-  
 22 life in foreign countries or on the high seas for importation  
 23 into the United States for commercial or other purposes, to  
 24 develop and carry out, with such assistance as he may provide  
 25 under any authority available to him, conservation practices

1 designed to enhance such fish or wildlife and their habitat  
 2 or range. The Secretary of State, in consultation with the  
 3 Secretary, shall take appropriate measures to encourage the  
 4 development of adequate measures, including, if appro-  
 5 priate, international agreements, to prevent such fish or  
 6 wildlife from becoming threatened with extinction.

7 (2) To assure the worldwide conservation of endan-  
 8 gered species and to avoid unnecessary harm to affected  
 9 United States industries, the Secretary, through the Seco-  
 10 rary of State, shall seek the convening of an international  
 11 ministerial meeting on fish and wildlife prior to July 1,  
 12 1979, and included in the business of that meeting shall be  
 13 the signing of a binding international convention on the  
 14 conservation of endangered species.

15 (b) The Secretary of Agriculture and the Secretary  
 16 shall provide for appropriate coordination of the adminis-  
 17 tration of this Act and amendments made by this Act with  
 18 the administration of the animal quarantine laws (19 U.S.C.  
 19 1306, 21 U.S.C. 101-106, 111-195b, and 612-614).  
 20 Nothing in this Act, or any amendment made by this Act,  
 21 shall be construed as supplanting or limiting in any manner  
 22 the functions of the Secretary of Agriculture under any  
 23 other law relating to prohibited or restricted importations  
 24 of animals and other articles and no proceeding or determi-  
 25 nation under this Act shall preclude any proceeding or be

1 considered determinative of any issue of fact or law in any  
2 proceeding under any Act administered by the Secretary  
3 of Agriculture.

4 (e) Whenever the Secretary determines, pursuant to  
5 the Act or any other authority vested in him, that a species  
6 or subspecies of fish or wildlife is endangered, the Secretary  
7 of Agriculture may use all authorities available to him with  
8 respect to research, investigations, conservation, develop-  
9 ment, protection, management, and enhancement of fish and  
10 wildlife, including but not limited to, the conservation oper-  
11 ations program, watershed protection and flood prevention  
12 programs, rural environmental assistance program, Great  
13 Plains conservation program, resource conservation and  
14 development program, forestry programs, and water bank  
15 program, in the protection, control, management, or en-  
16 hancement of such species or subspecies. Recognizing the  
17 national and international interest in the protection and en-  
18 hancement of such species or subspecies, the Secretary of  
19 Agriculture is authorized, notwithstanding the provisions of  
20 any other law, to bear the full cost, or any lesser amount  
21 that he, in consultation with the Secretary, may determine  
22 desirable to accomplish the objectives of the Act, of the cost  
23 of installing any practice, measure, work of improvement,  
24 facility, or other developmental, protective, or management  
25 systems on private land, the primary purpose of which is

1 for the purpose of enabling the landowner to comply with  
2 the regulations, or other recommendations, of the Secretary  
3 pertaining to the protection, control, management, or en-  
4 hancement of such species or subspecies. The Secretary of  
5 Agriculture, in carrying out the purposes of this section,  
6 shall utilize his authorities to conduct research and investi-  
7 gations into vegetative and structural methods and other  
8 methods and practices, measures, works of improvement, and  
9 facilities most appropriate or effective in the protection,  
10 control, management, or enhancement of such species or  
11 subspecies. If determined desirable, the Secretary and the  
12 Secretary of Agriculture shall be authorized to jointly carry  
13 out research, surveys, and investigations. The Secretary is  
14 authorized to transfer to the Secretary of Agriculture such  
15 funds as may be necessary to carry out the purposes of this  
16 subsection.

17 (d) Nothing in this Act, or any amendment made by  
18 this Act, shall be construed as superseding or limiting in  
19 any manner the functions and responsibilities of the Secre-  
20 tary of the Treasury under the Tariff Act of 1930, as  
21 amended, including, without limitation, section 527 of such  
22 Act (19 U.S.C. 1527) relating to the importation of wild-  
23 life taken, killed, possessed, or exported to the United  
24 States in violation of the laws or regulations of a foreign  
25 country.

## ENDANGERED FLORA

1  
2 Sec. 11. The Secretary of the Smithsonian Institution,  
3 in conjunction with other affected agencies, is authorized and  
4 directed to review (1) species and subspecies of endangered  
5 plants, trees, and other flora, and (2) methods of providing  
6 adequate protection to such species and subspecies, and to  
7 report to Congress, within one year after the date of the  
8 enactment of this Act, the results of such review. For the  
9 purposes of this section, there is authorized to be appro-  
10 priated \$250,000.

## CONFORMING AMENDMENTS

11  
12 Sec. 12. (a) Subsection 4 (e) of the Act of Octo-  
13 ber 15, 1966 (80 Stat. 929), as amended (16 U.S.C. 668d  
14 (e)), is further amended by revising the second sentence  
15 thereof to read as follows: "With the exception of endangered  
16 species listed by the Secretary pursuant to section 4 of the  
17 Endangered Species Conservation Act of 1972, nothing in  
18 this Act shall be construed to authorize the Secretary to  
19 control or regulate hunting or fishing of resident fish and  
20 wildlife on lands not within the system."  
21 (b) Subsection 10 (a) of the Migratory Bird Conser-  
22 vation Act (16 Stat. 1224), as amended (16 U.S.C. 715i  
23 (a)), is further amended by inserting "or likely within  
24 the foreseeable future to become threatened with" between  
25 the words "with" and "extinction".

1 (e) Subsection 401 (a) of the Act of June 15, 1966-  
2 (49 Stat. 383), as amended (16 U.S.C. 715e (e)), is  
3 further amended by inserting "or likely within the foresee-  
4 able future to become threatened with" between the words  
5 "with" and "extinction" in the last sentence thereof.  
6 (d) Section 6 (a) (1) of the Land and Water Conserva-  
7 tion Fund Act of 1965 (16 U.S.C. 4601-9 (a) (1)) is  
8 amended by striking out:  
9 "ENDANGERED SPECIES. For any national area  
10 which may be authorized for the preservation of species  
11 of fish or wildlife that are threatened with extinction,"  
12 and inserting in lieu thereof the following:  
13 "ENDANGERED SPECIES. For lands, waters, or  
14 interests therein, the acquisition of which is authorized  
15 under section 5 (e) of the Endangered Species Conserva-  
16 tion Act of 1972, needed for the purpose of conserv-  
17 ing, protecting, restoring, or propagating endangered  
18 species of fish and wildlife."  
19 APPENDIX  
20 Sec. 12. (a) Sections 1 through 3 of the Act of Octo-  
21 ber 15, 1966 (80 Stat. 926, 927), as amended (16 U.S.C.  
22 668a-668e) are hereby repealed in their entirety.  
23 (b) Sections 1 through 6 of the Act of December 5,  
24 1969 (82 Stat. 275-279), 16 U.S.C. 668e-1 through  
25 668e-6 are hereby repealed in their entirety.

1 That this Act, with the following table of contents, may be  
2 cited as the "Endangered and Threatened Species Conserva-  
3 tion Act of 1973".

TABLE OF CONTENTS

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FINDINGS, PURPOSES, AND POLICY

6  
7 SEC. 2. (a) The Congress finds and declares that one  
8 of the unfortunate consequences of growth and development  
9 in the United States and elsewhere has been the extermin-  
10 ation of some species or subspecies of fish, wildlife, and plants;  
11 that serious losses in species of wild animals with educational,  
12 historical, recreational, and scientific value have occurred  
13 and are occurring; that the United States has pledged it-  
14 self, pursuant to migratory bird treaties with Canada and  
15 Mexico, the Migratory and Endangered Bird Treaty with  
16 Japan, the Convention on Nature Protection and Wildlife  
17 Preservation in the Western Hemisphere, the International  
18 Convention for the Northwest Atlantic Fisheries, the Inter-  
19 national Convention for the High Seas Fisheries of the

1 North Pacific Ocean, the Convention on International Trade  
2 in Endangered Species of Wild Fauna and Flora, and other  
3 international agreements, to conserve and protect, where  
4 practicable, the various species of fish, wildlife, and plants  
5 facing extinction; that a key to more effective protection and  
6 management of native fish and wildlife that are endangered  
7 or threatened is to encourage and assist the States in devel-  
8 oping programs for such fish and wildlife; and that the con-  
9 servation, protection, restoration, or propagation of such  
10 species will inure to the benefit of all citizens.

11 (b) The purposes of this Act are to provide a means  
12 whereby the ecosystems upon which endangered species and  
13 threatened species depend may be conserved, protected, or re-  
14 stored, to provide a program for the conservation, protection,  
15 restoration, or propagation of such endangered species and  
16 threatened species, and to take such steps as may be appro-  
17 priate to achieve the purposes of the treaties and conventions  
18 set forth in subsection (a) of this section.

19 (c) It is further declared to be the policy of Congress  
20 that all Federal departments and agencies shall seek to pro-  
21 tect endangered species and threatened species and shall utilize  
22 their authorities in furtherance of the purposes of this Act.

DEFINITIONS

23  
24 SEC. 3. For the purposes of this Act—  
25 (1) The term "Convention" means the Convention

1 on *International Trade in Endangered Species of Wild*  
 2 *Fauna and Flora*, signed on March 3, 1973, and the  
 3 appendices thereto.

4 (2) The term "endangered species" means any  
 5 species of fish or wildlife which is in danger of extinction  
 6 throughout all or a significant portion of its range.

7 (3) The term "fish or wildlife" means any wild  
 8 member of the animal kingdom, whether or not raised  
 9 in captivity, including without limitation, any mammal,  
 10 fish, bird (including any migratory, nonmigratory, or  
 11 endangered bird for which protection is also afforded  
 12 by treaty or other international agreement), amphibian,  
 13 reptile, mollusk, or crustacean, and includes any part,  
 14 product, egg, or offspring thereof, or the dead body or  
 15 parts thereof.

16 (4) The term "foreign commerce" includes, among  
 17 other things, any transaction—

18 (A) between persons within one foreign coun-  
 19 try;

20 (B) between persons in two or more foreign  
 21 countries;

22 (C) between a person within the United States  
 23 and a person in a foreign country; or

24 (D) between persons within the United States,  
 25 where the fish and wildlife in question are moving

1 in any country or countries outside the United  
 2 States.

3 (5) The term "import" means to land on, bring  
 4 into, or introduce into, or attempt to land on, bring  
 5 into, or introduce into, any place subject to the juris-  
 6 diction of the United States, whether or not such land-  
 7 ing, bringing, or introduction constitutes an importation  
 8 within the meaning of the customs laws of the United  
 9 States.

10 (6) The term "person" means (A) any private  
 11 person or entity, and (B) any officer, employee, agent,  
 12 department, or instrumentality of the Federal Govern-  
 13 ment, of any State or political subdivision thereof, or of  
 14 any foreign government.

15 (7) The term "plant" means any member of the  
 16 plant kingdom, including seeds, roots and other parts  
 17 thereof.

18 (8) The term "Secretary" means, except as other-  
 19 wise herein provided, the Secretary of the Interior or  
 20 the Secretary of Commerce as program responsibilities  
 21 are vested pursuant to the provisions of Reorganization  
 22 Plan Numbered 4 of 1970; except that with respect to  
 23 the enforcement of the provisions of this Act and the  
 24 Convention which pertain to the importation or exporta-

1 tion of terrestrial plants, the term means the Secretary  
2 of Agriculture.

3 (9) The term "species" includes any subspecies of  
4 fish or wildlife or plants and any other group of fish or  
5 wildlife of the same species or smaller taxa in common  
6 spatial arrangement that interbreed when mature.

7 (10) The term "State" means any of the several  
8 States, the District of Columbia, the Commonwealth of  
9 Puerto Rico, American Samoa, the Virgin Islands,  
10 Guam, and the Trust Territory of the Pacific Islands.

11 (11) The term "take" means to harass, pursue, hunt,  
12 shoot, wound, kill, trap, capture, or collect, or to attempt  
13 to harass, pursue, hunt, shoot, wound, kill, trap, capture,  
14 or collect.

15 (12) The term "threatened species" means any spe-  
16 cies of fish or wildlife which is likely to become an endan-  
17 gered species within the foreseeable future throughout all  
18 or a significant portion of its range.

19 (13) The term "United States", when used in a  
20 geographical context, includes all States.

21 DETERMINATION OF ENDANGERED SPECIES  
22 AND THREATENED SPECIES

23 SEC. 4. (a) The Secretary shall by regulation deter-  
24 mine whether any fish or wildlife is an endangered species  
25 or a threatened species because of any of the following factors:

1 (1) the present or threatened destruction, modifica-  
2 tion, or curtailment of its habitat or range;

3 (2) overutilization for commercial, sporting, scien-  
4 tific, or educational purposes;

5 (3) disease or predation;

6 (4) the inadequacy of existing regulatory mecha-  
7 nisms; or

8 (5) other natural or manmade factors affecting its  
9 continued existence.

10 (b) (1) The Secretary shall make determinations re-  
11 quired by subsection (a) of this section on the basis of the  
12 best scientific and commercial data available to him and  
13 after consultation, as appropriate, with the affected States,  
14 interested persons and organizations, other interested Fed-  
15 eral agencies, and, in cooperation with the Secretary of  
16 State, with the country or countries in which the fish or  
17 wildlife concerned is normally found or whose citizens har-  
18 vest such fish or wildlife on the high seas; except that in  
19 any case in which such determinations involve native species  
20 of fish or wildlife, the Secretary shall consult with and  
21 consider the recommendations of each State concerned, be-  
22 fore adding such species to, or removing such species from,  
23 any list published pursuant to subsection (c) of this section.  
24 (2) In determining whether or not any fish or wildlife  
25 is an endangered species or a threatened species, the Sec-

1 relay shall take into consideration those efforts, if any,  
 2 being made by any nation or any political subdivision of any  
 3 nation to protect such fish or wildlife, whether by predator  
 4 control, protection of habitat and food supply, or other fish  
 5 or wildlife conservation or management practices, within  
 6 any area under the jurisdiction of any such nation or politi-  
 7 cal subdivision.

8 (3) The Secretary shall give full consideration regard-  
 9 ing whether or not fish or wildlife which have been desig-  
 10 nated by any foreign country, or pursuant to any interna-  
 11 tional agreement, as requiring protection from unrestricted  
 12 commerce are endangered species or threatened species.

13 (c) (1) The Secretary shall publish in the Federal Reg-  
 14 ister, and from time to time he may by regulation revise, a  
 15 list of all fish or wildlife determined by him to be endangered  
 16 species and a list of all fish or wildlife determined by him to  
 17 be threatened species. Each list shall refer to the species  
 18 contained therein by scientific and common name or names  
 19 and shall specify with respect to each such species over what  
 20 portion of its range it is endangered or threatened.

21 (2) The Secretary shall, upon the petition of an inter-  
 22 ested person under subsection 553(e) of title 5, United States  
 23 Code, also conduct a review of any listed or unlisted species  
 24 of fish or wildlife proposed to be removed from or added to

1 either of the lists published pursuant to paragraph (1) of  
 2 this subsection, but only when he finds and publishes his find-  
 3 ing that, to his satisfaction, such person has presented sub-  
 4 stantial evidence to warrant such a review.

5 (3) Any list in effect on the day before the date of the  
 6 enactment of this Act of species of fish or wildlife determined  
 7 by the Secretary of the Interior, pursuant to the Endangered  
 8 Species Conservation Act of 1969, to be threatened with  
 9 extinction shall be republished to conform to the classification  
 10 for endangered species or threatened species, as the case may  
 11 be, provided for in this Act, but until such republication, any  
 12 such species so listed shall be deemed an endangered species  
 13 within the meaning of this Act. The republication of any  
 14 species pursuant to this paragraph shall not require public  
 15 hearing or comment under section 553 of title 5, United States  
 16 Code.

17 (d) Whenever the Secretary lists a species of fish or  
 18 wildlife as an endangered species or a threatened species pur-  
 19 suant to subsection (a) of this section, he shall issue such  
 20 regulations as he deems necessary and advisable to provide  
 21 for the conservation, protection, restoration, or propagation  
 22 of such species. The Secretary may by regulation prohibit  
 23 with respect to any threatened species any act prohibited  
 24 under section 9(a) of this Act with respect to endangered

1 species; except that with respect to native species of fish or  
 2 wildlife, such regulations shall apply in any State which has  
 3 entered into a cooperative agreement pursuant to section  
 4 6(c) of this Act only to the extent that such regulations  
 5 have also been adopted by such State.

6 (e) For the purpose of facilitating the enforcement of  
 7 this Act, the Secretary may from time to time, by regulation,  
 8 treat, to the extent he deems it advisable, any species of fish  
 9 or wildlife or of any plant which is not listed pursuant to  
 10 section 4 of this Act as an endangered species or threatened  
 11 species, if such species so closely resembles in appearance, at  
 12 the point in question, a species of fish or wildlife or plant which  
 13 has been so listed that substantial difficulty is posed to en-  
 14 forcement personnel in attempting to differentiate between  
 15 listed and unlisted species or subspecies of fish or wildlife  
 16 or plants, and this difficulty poses an additional threat to an  
 17 endangered species or threatened species.  
 18 (f) Section 553 of title 5, United States Code, shall  
 19 apply with respect to any regulation issued pursuant to this  
 20 Act.

21 LAND ACQUISITION

22 SEC. 5. (a) The Secretary shall establish and imple-  
 23 ment a program to conserve, protect, restore, or propagate  
 24 (A) fish or wildlife which are listed as endangered species

1 or threatened species pursuant to section 4 of this Act or  
 2 (B) plants which are included in Appendices to the Con-  
 3 vention. To carry out such program, the Secretary—

4 (1) shall utilize the land acquisition and other  
 5 authority under the Migratory Bird Conservation Act,  
 6 the Fish and Wildlife Act of 1956, as amended, and  
 7 the Fish and Wildlife Coordination Act, as appropriate;  
 8 and

9 (2) is authorized to acquire by purchase, donation,  
 10 or otherwise, lands, waters, or interest therein, and  
 11 such authority shall be in addition to any other land  
 12 acquisition authority vested in him.

13 (b) Funds made available pursuant to the Land and  
 14 Water Conservation Fund Act of 1965, as amended, may be  
 15 used for the purpose of acquiring lands, waters, or interests  
 16 therein under subsection (a) of this section.

17 COOPERATION WITH THE STATES

18 SEC. 6. (a) In carrying out the program authorized by  
 19 this Act, the Secretary shall cooperate to the maximum  
 20 extent practicable with the States. Such cooperation shall  
 21 include consultation with the States concerned before acquir-  
 22 ing any land or water, or interest therein, for the purpose of  
 23 conserving, protecting, restoring, or propagating any en-  
 24 dangered or threatened species.

1 (b) The Secretary may enter into agreements with any  
 2 State for the administration and management of any area  
 3 established for the conservation, protection, restoration, or  
 4 propagation of endangered or threatened species. Any reve-  
 5 nues derived from the administration of such areas under  
 6 these agreements shall be subject to the provisions of section  
 7 401 of the Act of June 15, 1935 (49 Stat. 383; 16 U.S.C.  
 8 715s).

9 (c) In furtherance of the purposes of this Act, the Sec-  
 10 retary is authorized to enter into cooperative agreements to  
 11 provide financial assistance to States, through their respective  
 12 fish and wildlife agencies, which maintain or establish ade-  
 13 quate and active programs to manage and protect endangered  
 14 and threatened species. In order for any State to qualify for  
 15 assistance under this subsection, the Secretary must find  
 16 annually that under the State program—

17 (1) authority resides in the State fish and wildlife  
 18 agency to manage and protect native species of fish or  
 19 wildlife determined by the State agency or the Secretary  
 20 to be endangered or threatened;

21 (2) the State fish and wildlife agency has established  
 22 acceptable management programs, consistent with the  
 23 purposes and policies of this Act, for all species of fish  
 24 or wildlife indigenous to the State which are deemed by  
 25 the Secretary to be endangered or threatened;

1 (3) the State fish and wildlife agency is authorized  
 2 to conduct investigations to determine the status and  
 3 requirements for survival of indigenous species or sub-  
 4 species of fish and wildlife;

5 (4) the State fish and wildlife agency is authorized  
 6 to establish programs, including the acquisition of land  
 7 or aquatic habitat or interests therein, for protection  
 8 and management of endangered or threatened species;  
 9 and

10 (5) provision is made in such programs for public  
 11 participation in designating indigenous species or sub-  
 12 species of fish or wildlife as endangered or threatened.

13 (d) (1) Funds appropriated annually for purposes of  
 14 assistance under subsection (c) shall be available to the Sec-  
 15 retary for allocation to the States under cooperative agree-  
 16 ments to assist in development by States of programs for  
 17 management and protection of endangered and threatened  
 18 species of fish or wildlife including research, censusing, law  
 19 enforcement, and habitat acquisition or improvement. The  
 20 Secretary shall make an allocation of appropriated funds to  
 21 the States based on consideration of—

22 (A) the international obligations of the United  
 23 States to protect a species;

24 (B) the national significance of a species found to  
 25 be endangered or threatened within a State; and

1 (C) the potential for preventing extinction of a  
 2 species and restoring such species to nonendangered  
 3 or nonthreatened status.  
 4 So much of any appropriated funds allocated for obligation  
 5 to any State for any fiscal year as remains unobligated at the  
 6 close thereof is authorized to be made available to that State  
 7 until the close of the succeeding fiscal year. Any amount allo-  
 8 cated to any State which is unobligated at the end of the  
 9 period during which it is available for expenditure is author-  
 10 ized to be made available for expenditure by the Secretary  
 11 in conducting programs under this Act.  
 12 (2) Such cooperative agreements shall provide for (A)  
 13 the actions to be taken by the Secretary and the States; (B)  
 14 the benefits that are expected to be derived in connection  
 15 with preservation and restoration of endangered or threat-  
 16 ened species; (C) the estimated cost of these actions; and  
 17 (D) the share of such costs to be borne by the Federal  
 18 Government and by the States, except that—  
 19 (i) the Federal share of such program costs shall  
 20 not exceed 66 $\frac{2}{3}$  per centum of the estimated program  
 21 costs stated in the agreement; and  
 22 (ii) the Federal share may be increased to 75  
 23 per centum whenever two or more States, having a  
 24 common interest in a program that the Secretary deems

1 to meet the criteria of paragraph (1), enter jointly into  
 2 an agreement with the Secretary.  
 3 The Secretary may, in his discretion, and under such rules  
 4 and regulations as he may prescribe, advance funds to the  
 5 State for financing the United States pro rata share agreed  
 6 upon in the cooperative agreement.  
 7 (e) Any action taken by the Secretary under this sec-  
 8 tion shall be subject to his periodic review at no greater than  
 9 annual intervals.  
 10 (f) Any State law or regulation which applies with re-  
 11 spect to the importation or exportation of, or interstate or  
 12 foreign commerce in, endangered or threatened species is  
 13 void to the extent that it may effectively (1) permit what  
 14 is prohibited by this Act or by any regulation which imple-  
 15 ments this Act or (2) prohibit what is authorized pursuant  
 16 to an exemption or permit provided for in this Act or in any  
 17 regulation which implements this Act. This Act shall not  
 18 otherwise be construed to void any State law or regulation  
 19 which is intended to conserve and manage migratory, rest-  
 20 dent, or introduced fish or wildlife, or to permit or prohibit  
 21 sale of such fish or wildlife. Any State law or regulation re-  
 22 specting the taking of an endangered or threatened species  
 23 may be more restrictive than the exemptions or permits pro-  
 24 vided for in this Act or in any regulation which implements

1 this Act, but not less restrictive than the prohibitions so  
2 defined.

3 (g) The Secretary is authorized to promulgate such reg-  
4 ulations as may be appropriate to carry out the provisions  
5 of this section relating to financial assistance to States.

6 (h) There are hereby authorized to be appropriated for  
7 the fiscal years 1974, 1975, and 1976 such sums as may be  
8 necessary to carry out the purposes of this section.

#### 9 INTERAGENCY COOPERATION

10 SEC. 7. (a) The Secretary shall review other programs  
11 administered by him and utilize such programs in furtherance  
12 of the purpose of this Act. All other Federal departments  
13 and agencies shall, in consultation with and with the assist-  
14 ance of the Secretary, utilize their authorities in furtherance  
15 of the purposes of this Act by carrying out programs for the  
16 protection of endangered species and threatened species listed  
17 pursuant to section 4 of this Act and by taking such action  
18 necessary to insure that actions authorized, funded, or car-  
19 ried out by them do not jeopardize the continued existence of  
20 such endangered species and threatened species or result in the  
21 destruction or modification of habitat of such species which is  
22 determined by the Secretary, after consultation as appropriate  
23 with the affected States, to be critical.

24 (b) The Secretary of Agriculture is authorized, not-  
25 withstanding the provisions of any other law, to bear

1 the full cost, or any lesser amount that he, in consultation  
2 with the Secretary, may determine desirable to accomplish  
3 the objectives of the Act, of the cost of installing any  
4 practice, measure, work of improvement, facility, or other  
5 developmental, protective, or management systems on pri-  
6 vate land, the primary purpose of which is to enable land-  
7 owners to comply with the regulations, or other recom-  
8 mendations, of the Secretary pertaining to the conservation,  
9 protection, restoration, or propagation of such species. The  
10 Secretary of Agriculture, in carrying out the purposes of this  
11 subsection, shall utilize his authorities to conduct research  
12 and investigations into vegetative and structural methods and  
13 other methods and practices, measures, works of improve-  
14 ment, and facilities most appropriate or effective in the pro-  
15 tection, control, management, or enhancement of such spe-  
16 cies. If determined desirable, the Secretary and the Secretary  
17 of Agriculture may jointly carry out such research and inves-  
18 tigations. The Secretary may transfer to the Secretary of  
19 Agriculture such funds as may be necessary to carry out  
20 the purposes of this subsection.

#### 21 INTERNATIONAL COOPERATION

22 SEC. 8. (a) As a demonstration of the commitment of  
23 the United States to the worldwide protection of endangered  
24 species and threatened species, the President may, subject to  
25 the provisions of section 1415 of the Supplemental Appro-

1 prition Act, 1953 (31 U.S.C. 724), use foreign currencies  
 2 accruing to the United States Government under the Agri-  
 3 cultural Trade Development and Assistance Act of 1954 or  
 4 any other law to provide to any foreign country (with its  
 5 consent) assistance in the development and management of  
 6 programs in that country which the Secretary determines to  
 7 be necessary or useful for the conservation, protection, res-  
 8 toration, or propagation of any endangered species or  
 9 threatened species listed by the Secretary pursuant to section  
 10 4 of this Act. The President shall provide assistance (which  
 11 includes, but is not limited to, the acquisition, by lease or  
 12 otherwise, of lands, waters, or interests therein) to foreign  
 13 countries under this section under such terms and conditions  
 14 as he deems appropriate. Whenever foreign currencies are  
 15 available for the provision of assistance under this section,  
 16 such currencies shall be used in preference to funds appro-  
 17 priated under the authority of section 15 of this Act.

18 (b) In order to carry out further the provisions of this  
 19 Act, the Secretary, through the Secretary of State, shall  
 20 encourage—

21 (1) foreign countries to provide for the protection,  
 22 conservation, restoration, or propagation of fish or wild-  
 23 life including endangered species and threatened species  
 24 listed pursuant to section 4 of this Act;

25 (2) the entering into of bilateral or multilateral

1 agreements with foreign countries to provide for such  
 2 protection, conservation, restoration, or propagation;  
 3 and  
 4 (3) foreign persons who directly or indirectly take  
 5 fish or wildlife and plants in foreign countries or on the  
 6 high seas for importation into the United States for  
 7 commercial or other purposes to develop and carry out,  
 8 with such assistance as he may provide, conservation  
 9 practices designed to enhance such fish or wildlife and  
 10 plants and their habitat.

11 (c) After consultation with the Secretary of State, the  
 12 Secretary may—

13 (1) assign or otherwise make available any officer or  
 14 employee of his department for the purpose of cooperating  
 15 with foreign countries and international organizations in  
 16 developing personnel resources and programs which pro-  
 17 mote the protection, conservation, restoration, or propa-  
 18 gation of fish or wildlife and plants; and

19 (2) conduct or provide financial assistance for the  
 20 educational training of foreign personnel, in this country  
 21 or abroad, in fish, wildlife and plant management, re-  
 22 search and law enforcement and to render professional  
 23 assistance abroad in such matters.

24 (d) After consultation with the Secretary of State and  
 25 the Secretary of the Treasury, as appropriate, the Secretary

1 may conduct or cause to be conducted such law enforcement  
2 investigations and research abroad as he deems necessary  
3 to carry out the purposes of this Act.

4 (e) The President is authorized and directed to designate  
5 appropriate agencies to act as the Management Authority  
6 or Authorities and the Scientific Authority or Authorities  
7 pursuant to the Convention. The agencies so designated  
8 shall thereafter be authorized to do all things assigned  
9 to them under the Convention, including the issuance of permits  
10 and certificates. The agency designated by the President  
11 to communicate with other parties to the Convention  
12 and with the Secretariat shall also be empowered, where  
13 appropriate, in consultation with the State Department, to  
14 act on behalf of and represent the United States in all regards  
15 as required by the Convention. The President shall also designate  
16 those agencies which shall act on behalf of and represent  
17 the United States in all regards as required by the Convention  
18 on Nature Protection and Wildlife Preservation in the  
19 Western Hemisphere.

20 PROHIBITED ACTS

21 SEC. 9. (a) Except as provided in section 10 of this Act,  
22 it is unlawful for any person subject to the jurisdiction of  
23 the United States to—

24 (1) import into, or export from, the United States

1 any endangered species listed pursuant to section 4 of  
2 this Act;

3 (2) take any such species within the United States  
4 or the territorial sea of the United States, upon the high  
5 seas, or in any foreign country, except that this paragraph  
6 shall apply within any State which has entered into a cooperative  
7 agreement pursuant to section 6(c) of this Act only to the extent  
8 that the taking of any such species is contrary to the law  
9 of such State;

10 (3) possess, sell, deliver, carry, transport, or ship,  
11 by any means whatsoever, any such species taken in violation  
12 of paragraph (2);

13 (4) deliver, receive, carry, transport, or ship in interstate  
14 or foreign commerce, by any means whatsoever and for  
15 commercial purposes, any such species;  
16 (5) sell or offer for sale in interstate or foreign  
17 commerce any such species; or

18 (6) violate any regulation promulgated by the Secretary  
19 pursuant to section 4(d) of this Act.

20 (b) (1) It is unlawful for any person subject to the jurisdiction  
21 of the United States to engage in any trade in any specimens  
22 contrary to the provisions of the Convention, or to possess  
23 any specimens traded contrary to the provisions of the  
24 Convention, including the definitions of terms in  
25 article I thereof.

1 (2) Any importation into the United States of fish or  
 2 wildlife shall, if—  
 3 (A) such fish or wildlife is not an endangered species  
 4 listed pursuant to section 4 of this Act but is listed in  
 5 Appendix II to the Convention,  
 6 (B) the taking and exportation of such fish or wild-  
 7 life is not contrary to the provisions of the Convention  
 8 and all other applicable requirements of the Convention  
 9 have been satisfied, and  
 10 (C) the applicable requirements of subsections (d)  
 11 and (e) of this section have been satisfied,  
 12 be presumed to be an importation not in violation of any  
 13 provision of this Act or any regulation issued pursuant to  
 14 this Act.  
 15 (c) (1) It is unlawful for any person to engage in busi-  
 16 ness as an importer or exporter of fish or wildlife (other than  
 17 shellfish and fishery products which (A) are not listed pur-  
 18 suant to section 4 of this Act as endangered or threatened  
 19 species, and (B) are imported for commercial purposes or  
 20 taken in waters under the jurisdiction of the United States or  
 21 on the high seas for recreational purposes) or plants without  
 22 first having obtained a permit from the Secretary.  
 23 (2) Any person required to obtain a permit under para-  
 24 graph (1) of this subsection shall—  
 25 (A) keep such records as will fully and correctly

1 disclose each importation or exportation of fish, wildlife,  
 2 or plants made by him and the subsequent disposition  
 3 made by him with respect to such fish, wildlife, or  
 4 plants;  
 5 (B) at all reasonable times upon notice by a duly  
 6 authorized representative of the Secretary, afford such  
 7 representative access to his places of business, an oppor-  
 8 tunity to examine his inventory of imported fish, wild-  
 9 life, or plants and the records required to be kept under  
 10 subparagraph (A) of this paragraph, and to copy such  
 11 records; and  
 12 (C) file such reports as the Secretary may require.  
 13 (3) The Secretary shall prescribe such regulations as are  
 14 necessary and appropriate to carry out the purposes of this  
 15 subsection.  
 16 (d) It is unlawful for any person importing or export-  
 17 ing fish or wildlife (other than shellfish and fishery products  
 18 which (A) are not listed pursuant to section 4 of this Act  
 19 as endangered or threatened species, and (B) are imported  
 20 for commercial purposes or taken in waters under the juris-  
 21 diction of the United States or on the high seas for recrea-  
 22 tional purposes) or plants to fail to file any declaration or re-  
 23 port as the Secretary deems necessary to facilitate enforce-  
 24 ment of this Act or to meet the obligations of the Convention.  
 25 (e) (1) It is unlawful for any person subject to the

1 jurisdiction of the United States to import into or export from  
 2 the United States any fish or wildlife (other than shellfish  
 3 and fishery products which (A) are not listed pursuant to  
 4 section 4 of this Act as endangered species or threatened spe-  
 5 cies, and (B) are imported for commercial purposes or  
 6 taken in waters under the jurisdiction of the United States  
 7 or on the high seas for recreational purposes) or plants, ex-  
 8 cept at a port or ports designated by the Secretary. For the  
 9 purpose of facilitating enforcement of this Act and reducing  
 10 the costs thereof, the Secretary, with approval of the Sec-  
 11 retary of the Treasury and after notice and opportunity for  
 12 public hearing, may, by regulation, designate ports and  
 13 change such designations. The Secretary, under such terms  
 14 and conditions as he may prescribe, may permit the importa-  
 15 tion or exportation at nondesignated ports in the interest of  
 16 the health or safety of the fish or wildlife or plants, or for  
 17 other reasons if, in his discretion, he deems it appropriate  
 18 and consistent with the purpose of this subsection.

19 (2) Any port designated by the Secretary of the Interior  
 20 under the authority of section 4(d) of the Act of December 5,  
 21 1969 (16 U.S.C. 666cc-4(d)), shall, if such designation is  
 22 in effect on the day before the date of the enactment of this  
 23 Act, be deemed to be a port designated by the Secretary  
 24 under paragraph (1) of this subsection until such time as the  
 25 Secretary otherwise provides.

1 (f) It is unlawful for any person subject to the jurisdic-  
 2 tion of the United States to attempt or conspire to commit,  
 3 or cause to be committed, any offense defined in this section.

#### EXCEPTIONS

4  
 5 SEC. 10. (a) The Secretary may permit, under such  
 6 terms and conditions as he may prescribe, any act otherwise  
 7 prohibited by section 9 of this Act for scientific purposes or  
 8 to enhance the propagation or survival of the affected species.

9 (b) (1) If any person enters into a contract with re-  
 10 spect to a species or subspecies of fish or wildlife or plant  
 11 before the date of the publication in the Federal Register  
 12 of notice of a proposed listing of that species as an endan-  
 13 gered species and the subsequent listing of that species as  
 14 an endangered species pursuant to section 4 of this Act will  
 15 cause undue economic hardship to such person under the  
 16 contract, the Secretary, in order to minimize such hardship,  
 17 may exempt such person from the application of section 9  
 18 (a) of this Act to the extent the Secretary deems appro-  
 19 priate if such person applies to him for such exemption and  
 20 includes with such application such information as the Secre-  
 21 tary may require to prove such hardship; except that (A)  
 22 no such exemption shall be for a duration of more than one  
 23 year from the date of publication in the Federal Register of  
 24 notice of a proposed listing of the species or subspecies con-  
 25 cerned, or shall apply to a quantity of fish or wildlife or plants

1 in excess of that specified by the Secretary; (B) the one-  
 2 year period for those species or subspecies of fish or wildlife  
 3 listed by the Secretary as endangered prior to the effective  
 4 date of this Act shall expire in accordance with the terms of  
 5 section 3 of the Act of December 5, 1969 (83 Stat. 275);  
 6 and (C) no such exemption may be granted for the impor-  
 7 tation or exportation of a specimen listed in Appendix I of  
 8 the Convention which is to be used for primarily commercial  
 9 purposes.

10 (2) The Secretary shall publish notice in the Federal  
 11 Register of each application for an exemption which is made  
 12 under this subsection. Each notice shall invite the submit-  
 13 sion from interested parties, within thirty days after the date  
 14 of the notice, written data, views, or arguments with respect  
 15 to the application. Information received by the Secretary  
 16 as a part of any application shall be available to the public  
 17 as a matter of public record at every stage of the proceeding.

18 (c) The Secretary may grant exceptions under sub-  
 19 sections (a) and (b) of this section only if he finds and  
 20 publishes his finding that (1) such exceptions were applied for  
 21 in good faith, (2) if granted and exercised will not op-  
 22 erate to the disadvantage of such endangered species, and  
 23 (3) will be consistent with the purposes and policy set forth  
 24 in section 2 of this Act.

25 (d) Any taking by an Indian, Aleut, or Eskimo of any

1 marine mammal (as defined in section 2(5) of the Marine  
 2 Mammal Protection Act of 1972) which is listed pursuant to  
 3 section 4(a) of this Act as an endangered species or threat-  
 4 ened species shall not be deemed to be in violation of this Act  
 5 or any regulation issued pursuant thereto if such taking is  
 6 lawful under section 101(1) of the Marine Mammal Protec-  
 7 tion Act of 1972.

#### PENALTIES AND ENFORCEMENT

9 Sec. 11. (a) (1) Any person who violates any provision  
 10 of this Act, of any permit or certificate issued hereunder,  
 11 or of any regulation issued in order to implement subsection  
 12 (a) (1), (2), (3), (4), or (5), (b), (c) (other than a  
 13 regulation relating to recordkeeping or filing of reports), (e),  
 14 or (f) of section 9 of this Act may be assessed a civil penalty  
 15 by the Secretary of not more than \$10,000 for each such  
 16 violation. Any person who knowingly violates any provision  
 17 of any other regulation issued under this Act may be as-  
 18 sessed a civil penalty by the Secretary of not more than  
 19 \$5,000 for each such violation. No penalty may be assessed  
 20 under this subsection unless such person is given notice and  
 21 opportunity for a hearing with respect to such violation. Each  
 22 violation shall be a separate offense. Any such civil penalty  
 23 may be remitted or mitigated by the Secretary. Upon any fail-  
 24 ure to pay a penalty assessed under this subsection, the Secre-  
 25 tary may request the Attorney General to institute a civil ac-

1 tion in a district court of the United States for any district in  
 2 which such person is found, resides, or transacts business to  
 3 collect the penalty and such court shall have jurisdiction to  
 4 hear and decide any such action. The court shall hear such  
 5 action on the record made before the Secretary and shall  
 6 sustain his action if it is supported by substantial evidence on  
 7 the record considered as a whole.

8 (2) Hearings held during proceedings for the assess-  
 9 ment of civil penalties authorized by paragraph (1) of this  
 10 subsection shall be conducted in accordance with section  
 11 554 of title 5, United States Code. The Secretary may issue  
 12 subpoenas for the attendance and testimony of witnesses and  
 13 the production of relevant papers, books, and documents, and  
 14 administer oaths. Witnesses summoned shall be paid the  
 15 same fees and mileage that are paid to witnesses in the courts  
 16 of the United States. In case of contumacy or refusal to obey  
 17 a subpoena served upon any person pursuant to this para-  
 18 graph, the district court of the United States for any district  
 19 in which such person is found or resides or transacts business,  
 20 upon application by the United States and after notice to such  
 21 person, shall have jurisdiction to issue an order requiring such  
 22 person to appear and give testimony before the Secretary or  
 23 to appear and produce documents before the Secretary, or  
 24 both, and any failure to obey such order of the court may be  
 25 punished by such court as a contempt thereof.

1 (b)(1) Any person who knowingly commits an act  
 2 which violates any provision of this Act, of any permit or  
 3 certificate issued hereunder, or of any regulation issued in  
 4 order to implement subsection (a) (1), (2), (3), (4), or  
 5 (5), (b), (c) (other than a regulation relating to record-  
 6 keeping or filing of reports), (e), or (f) of section 9 of this  
 7 Act shall, upon conviction, be fined not more than \$20,000  
 8 or imprisoned for not more than one year, or both. Any  
 9 person who knowingly commits an act which violates any  
 10 provision of any other regulation issued under this Act shall,  
 11 upon conviction, be fined not more than \$10,000 or impris-  
 12 oned for not more than six months, or both. Upon the recom-  
 13 mendation of the Secretary, the Secretary of the Treasury  
 14 is authorized to pay an amount equal to one-half of the  
 15 fine incurred but not to exceed \$2,500 to any person who  
 16 furnishes information which leads to a conviction for a  
 17 criminal violation of any provision of this Act or any regu-  
 18 lation or permit issued thereunder. Any officer or employee  
 19 of the United States or of any State or local government who  
 20 furnishes information or renders service in the performance  
 21 of his official duties shall not be eligible for payment under  
 22 this section.

23 (2) The head of any Federal agency which has issued  
 24 a lease, license, permit, or other agreement authorizing the  
 25 use of Federal lands, including grazing of domestic livestock,

1 to any person who is convicted of a criminal violation of this  
 2 Act or any regulation, permit, or certificate issued hereunder  
 3 may immediately modify, suspend, or revoke each lease,  
 4 license, permit, or other agreement. The Secretary shall also  
 5 suspend for a period of up to one year, or cancel, any Fed-  
 6 eral hunting or fishing permits or stamps issued to any per-  
 7 son who is convicted of a criminal violation of any provi-  
 8 sion of this Act or any regulation, permit, or certificate  
 9 issued hereunder. The United States shall not be liable for  
 10 the payments of any compensation, reimbursement, or dam-  
 11 ages in connection with the modification, suspension or  
 12 revocation of any leases, licenses, permits, stamps, or other  
 13 agreements pursuant to this section.

14 (c) The several district courts of the United States, in-  
 15 cluding the courts enumerated in section 460 of title 28,  
 16 United States Code, shall have jurisdiction over any actions  
 17 arising under this Act. For the purpose of this Act, Ameri-  
 18 can Samoa shall be included within the judicial district of the  
 19 District Court of the United States for the District of Hawaii.

20 (d) (1) The provisions of this Act and any regulations  
 21 or permits issued pursuant thereto shall be enforced by the  
 22 Secretary, the Secretary of the Treasury, or the Secretary of  
 23 the Department in which the Coast Guard is operating, or  
 24 all such Secretaries. Each such Secretary may utilize by  
 25 agreement, with or without reimbursement, the personnel,

1 services, and facilities of any other Federal agency or any  
 2 State agency for purposes of enforcing this Act.

3 (2) The judges of the district courts of the United States  
 4 and the United States magistrates may, within their respective  
 5 jurisdictions, upon proper oath or affirmation showing prob-  
 6 able cause, issue such warrants or other process as may be  
 7 required for enforcement of this Act and any regulation  
 8 issued thereunder.

9 (3) Any person authorized by the Secretary, the Secre-  
 10 tary of the Treasury, or the Secretary of the Department in  
 11 which the Coast Guard is operating, to enforce this Act may  
 12 detain for inspection and inspect any package, crate, or  
 13 other container, including its contents, and all accompanying  
 14 documents, upon importation or exportation. Such person  
 15 may execute and serve any arrest warrant, search warrant, or  
 16 other warrant or civil or criminal process issued by any offi-  
 17 cer or court of competent jurisdiction for enforcement of this  
 18 Act. Such person so authorized may search and seize, with-  
 19 out a warrant, as authorized by law. Any fish, wild-  
 20 life, property, or item so seized shall be held by any person  
 21 authorized by the Secretary, the Secretary of the Treasury,  
 22 or the Secretary of the Department in which the Coast Guard  
 23 is operating pending disposition of civil or criminal proceed-  
 24 ings, or the institution of an action in rem for forfeiture of  
 25 such fish, wildlife, property, or item pursuant to paragraph

1 (4) of this subsection; except that the Secretary may, in lieu  
 2 of holding such fish, wildlife, property, or item, permit the  
 3 owner or consignee to post a bond or other surety satisfactory  
 4 to the Secretary.

5 (4) (A) All fish or wildlife or plants taken, possessed,  
 6 sold, purchased, offered for sale or purchase, transported,  
 7 delivered, received, carried, shipped, exported, or imported  
 8 contrary to the provisions of this Act, any regulation made  
 9 pursuant thereto, or any permit or certificate issued here-  
 10 under shall be subject to forfeiture to the United States.

11 (B) All guns, traps, nets, and other equipment, vessels,  
 12 vehicles, aircraft, and other means of transportation used to  
 13 and the taking, possessing, selling, purchasing, offering for  
 14 sale or purchase, transporting, delivering, receiving, carry-  
 15 ing, shipping, exporting, or importing of any fish or wildlife  
 16 or plants in violation of this Act, any regulation made pur-  
 17 suant thereto, or any permit or certificate issued thereunder  
 18 shall be subject to forfeiture to the United States upon con-  
 19 viction of a criminal violation pursuant to section 11(b)(1)  
 20 of this Act.

21 (5) All provisions of law relating to the seizure, forfeit-  
 22 ure, and condemnation of a vessel for violation of the customs  
 23 laws, the disposition of such vessel or the proceeds from the  
 24 sale thereof, and the remission or mitigation of such forfeit-  
 25 ure, shall apply to the seizures and forfeitures incurred, or

1 alleged to have been incurred, under the provisions of this  
 2 Act, insofar as such provisions of law are applicable and not  
 3 inconsistent with the provisions of this Act; except that all  
 4 powers, rights, and duties conferred or imposed by the cus-  
 5 tons laws upon any officer or employee of the Treasury De-  
 6 partment shall, for the purposes of this Act, be exercised or  
 7 performed by the Secretary or by such persons as he may  
 8 designate.

9 (e) The Secretary, the Secretary of the Treasury, and  
 10 the Secretary of the Department in which the Coast Guard  
 11 is operating, are authorized to promulgate such regulations  
 12 as may be appropriate to enforce this Act, and charge reason-  
 13 able fees for expenses to the Government connected with  
 14 permits or certificates authorized by this Act, including pro-  
 15 cessing applications and reasonable inspections, and with the  
 16 transfer, board, handling, or storage of fish or wildlife or  
 17 plants and evidentiary items seized and forfeited under this  
 18 Act. All such fees collected pursuant to this subsection shall  
 19 be deposited in the Treasury to the credit of the appropria-  
 20 tion which is current and chargeable for the cost of furnish-  
 21 ing the services. Appropriated funds may be expended pend-  
 22 ing reimbursement from parties in interest.

23 (f)(1) Except as provided in paragraph (2) of this  
 24 subsection any person may commence a civil suit on his own  
 25 behalf to enjoin any person, including the United States and

1 any other governmental instrumentality or agency (to the  
 2 extent permitted by the eleventh amendment to the Constitu-  
 3 tion), who is alleged to be in violation of any provision of  
 4 this Act or regulation issued under the authority thereof. The  
 5 district courts shall have jurisdiction, without regard to the  
 6 amount in controversy or the citizenship of the parties, to en-  
 7 force any such provision or regulation, as the case may be.

8 (2) No action may be commenced—

9 (A) prior to sixty days after written notice of the  
 10 violation has been given to the Secretary, and to any  
 11 alleged violator of any such provision or regulation;

12 (B) if the Secretary has commenced action to in-  
 13 pose a penalty pursuant to subsection (a) of this section;

14 or  
 15 (C) if the United States has commenced and is dili-  
 16 gently prosecuting a criminal action in a court of the  
 17 United States or a State to redress a violation of any such  
 18 provision or regulation.

19 (3) (A) Any suit under this subsection may be brought  
 20 in the judicial district in which the violation occurs.

21 (B) In any such suit under this subsection in which the  
 22 United States is not a party, the Attorney General, at the  
 23 request of the Secretary, may intervene on behalf of the  
 24 United States as a matter of right.

25 (4) The court, in issuing any final order in any suit

1 brought pursuant to paragraph (1) of this subsection, may  
 2 award costs of litigation (including reasonable attorney and  
 3 expert witness fees) to any party, whenever the court deter-  
 4 mines such award is appropriate.

5 (5) The injunctive relief provided by this subsection  
 6 shall not restrict any right which any person (or class of  
 7 persons) may have under any statute or common law to seek  
 8 enforcement of any standard or limitation or to seek any  
 9 other relief (including relief against the Secretary or a State  
 10 agency).

11 (g) The Secretary of Agriculture and the Secretary  
 12 shall provide for appropriate coordination of the administra-  
 13 tion of this Act with the administration of the animal quaran-  
 14 tine laws (21 U.S.C. 101-105, 111-135b, and 612-614)  
 15 and section 306 of the Tariff Act of 1930 (19 U.S.C. 1306).

16 Nothing in this Act or any amendment made by this Act,  
 17 shall be construed as superseding or limiting in any manner  
 18 the functions of the Secretary of Agriculture under any other  
 19 law relating to prohibited or restricted importations or pos-  
 20 session of animals and other articles and no proceeding or  
 21 determination under this Act shall preclude any proceeding  
 22 or be considered determinative of any issue of fact or law in  
 23 any proceeding under any Act administered by the Secretary  
 24 of Agriculture.

25 (h) Nothing in this Act shall be construed as supersed-

1 ing or limiting in any manner the functions and responsibil-  
 2 ties of the Secretary of the Treasury under the Tariff Act of  
 3 1930, including, without limitation, section 527 of that Act  
 4 (19 U.S.C. 1527), relating to the importation of wildlife  
 5 taken, killed, possessed, or exported to the United States in  
 6 violation of the laws or regulations of a foreign country.

#### 7 ENDANGERED PLANTS

8 SEC. 12. The Secretary of the Smithsonian Institution,  
 9 in conjunction with other affected agencies, is authorized  
 10 and directed to review (1) species of plants which are now or  
 11 may become endangered or threatened and (2) methods of  
 12 providing adequate protection to such species, and to report to  
 13 Congress, within one year after the date of the enactment of  
 14 this Act, the results of such review including recommendations  
 15 for new legislation or the amendment of existing legislation.

#### 16 CONFORMING AMENDMENTS

17 SEC. 13. (a) Subsection 4(c) of the Act of October 15,  
 18 1966 (80 Stat. 928, 16 U.S.C. 668dd(c)), is further  
 19 amended by revising the second sentence thereof to read  
 20 as follows: "With the exception of endangered species and  
 21 threatened species listed by the Secretary pursuant to sec-  
 22 tion 4 of the Endangered and Threatened Species Conserva-  
 23 tion Act of 1973 in States wherein a cooperative agreement  
 24 does not exist pursuant to section 6(c) of that Act, nothing  
 25 in this Act shall be construed to authorize the Secretary to

1 control or regulate hunting or fishing of resident fish and  
 2 wildlife on lands not within the system."

3 (b) Subsection 10(a) of the Migratory Bird Conserva-  
 4 tion Act (45 Stat. 1224, 16 U.S.C. 715i(a)) and subsection  
 5 401(a) of the Act of June 15, 1935 (49 Stat. 383, 16  
 6 U.S.C. 715(a)), are each amended by striking out "threat-  
 7 ened with extinction," and inserting in lieu thereof the fol-  
 8 lowing: "listed pursuant to section 4 of the Endangered and  
 9 Threatened Species Act of 1973 as endangered species or  
 10 threatened species."

11 (c) Section 7(a)(1) of the Land and Water Conser-  
 12 vation Fund Act of 1965 (16 U.S.C. 460l-9(a)(1)) is  
 13 amended by striking out:

14 "THREATENED SPECIES.—For any national area  
 15 which may be authorized for the preservation of species  
 16 of fish or wildlife that are threatened with extinction."

17 and inserting in lieu thereof the following:

18 "ENDANGERED SPECIES AND THREATENED SPE-  
 19 CIES.—For lands, waters, or interests therein, the ac-  
 20 quisition of which is authorized under section 5(a) of  
 21 the Endangered and Threatened Species Conservation  
 22 Act of 1973, needed for the purpose of conserving, pro-  
 23 tecting, restoring, or propagating endangered species of  
 24 fish or wildlife or plants."

1 (4) The first sentence of section 2 of the Act of Septem-  
 2 ber 28, 1962, as amended (76 Stat. 653, 16 U.S.C. 460k-1),  
 3 is amended to read as follows:  
 4 "The Secretary is authorized to acquire areas of land,  
 5 or interests therein, which are suitable for—  
 6 "(1) incidental fish and wildlife-oriented recrea-  
 7 tional development,  
 8 "(2) the protection of natural resources,  
 9 "(3) the protection of endangered species or threat-  
 10 ened species listed by the Secretary pursuant to section 4  
 11 of the Endangered and Threatened Species Conservation  
 12 Act of 1973, or  
 13 "(4) carrying out two or more of the purposes set  
 14 forth in paragraphs (1) through (3) of this section,  
 15 and are adjacent to, or within, the said conservation areas,  
 16 except that the acquisition of any land or interest therein  
 17 pursuant to this section shall be accomplished only with such  
 18 funds as may be appropriated therefor by the Congress or  
 19 donated for such purposes, but such property shall not be  
 20 acquired with funds obtained from the sale of Federal  
 21 migratory bird hunting stamps."  
 22 (e) The Marine Mammal Protection Act of 1972 (16  
 23 U.S.C. 1361-1407) is amended—  
 24 (1) by striking out "Endangered Species Conser-  
 25 vation Act of 1969" in section 3(1)(B) thereof and

1 inserting in lieu thereof the following: "Endangered and  
 2 Threatened Species Conservation Act of 1973";  
 3 (2) by striking out "pursuant to the Endangered  
 4 Species Conservation Act of 1969" in section 101(a)  
 5 (3)(B) thereof and inserting in lieu thereof the follow-  
 6 ing: "or threatened species pursuant to the Endangered  
 7 and Threatened Species Conservation Act of 1973";  
 8 (3) by striking out "endangered under the En-  
 9 dangered Species Conservation Act of 1969" in section  
 10 102(b)(3) thereof and inserting in lieu thereof the  
 11 following: "an endangered species or threatened species  
 12 pursuant to the Endangered and Threatened Species  
 13 Conservation Act of 1973"; and  
 14 (4) by striking out "Endangered Species List, au-  
 15 thorized by the Endangered Species Conservation Act  
 16 of 1969," in section 202(a)(6) thereof and inserting  
 17 in lieu thereof the following: "endangered species list  
 18 and threatened species list published pursuant to section  
 19 4(c)(1) of the Endangered and Threatened Species  
 20 Conservation Act of 1973".  
 21 REPEALER  
 22 SEC. 14. The Endangered Species Conservation Act of  
 23 1969 (sections 1 through 3 of the Act of October 15, 1966,  
 24 and sections 1 through 6 of the Act of December 5, 1969; 16  
 25 U.S.C. 668aa-668cc-6), is repealed.

## AUTHORIZATION OF APPROPRIATIONS

1  
2 SEC. 15. Except as authorized in section 6 of this Act,  
3 there are authorized to be appropriated—

4 (A) not to exceed \$6,000,000 for fiscal year 1974,  
5 not to exceed \$8,000,000 for fiscal year 1975 and not  
6 to exceed \$10,000,000 for fiscal year 1976, to enable

7 the Department of the Interior to carry out such func-  
8 tions and responsibilities as it may have been given under  
9 this Act; and

10 (B) not to exceed \$1,500,000 for fiscal year 1975  
11 and not to exceed \$2,000,000 for fiscal year 1976, to

12 enable the Department of Commerce to carry out such  
13 functions and responsibilities as it may have been given  
14 under this Act.

## EFFECTIVE DATE

15  
16 SEC. 16. This Act shall take effect on the date of its  
17 enactment.

Amend the title so as to read: "A bill to provide for the  
conservation, protection, restoration, or propagation of endan-  
gered and threatened species of fish, wildlife, and plants, and  
for other purposes."

95th CONGRESS  
1st Session

H. R. 37

[Report No. 93-412]

## A BILL

To provide for the conservation, protection, and propagation of species or subspecies of fish and wildlife that are threatened with extinction or likely within the foreseeable future to become threatened with extinction, and for other purposes.

By Mr. DINGELL, Mr. CLARE, Mr. MAULIARD,  
Mr. MOSHER, Mr. DOWNING, Mr. BUREX, Mr.  
GOODLING, Mr. BRAY, Mr. STUBBS, Mr.  
MURPHY of New York, Mr. JONES of North  
Carolina, Mr. BIGGOT, Mr. ANDERSON of  
California, Mr. KYROS, Mr. McCLOSKEY, Mr.  
STELLE, Mr. DU FORT, Mr. TRENKLE, Mr.  
JAMES V. SHAWTON, Mr. MERVOLTER, Mr.  
NEDEI, Mr. OHARA, Mr. WILLIAM D. FORD,  
Mrs. GERTTGEN, and Mr. Moss

JANUARY 3, 1978

Referred to the Committee on Merchant Marine and  
Fishes

JUNE 27, 1978

Reported with amendments, committed to the Com-  
mittee of the Whole House on the State of the  
Union, and ordered to be printed