

# ...About the U.S. Endangered Species Act

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

An “endangered species” is an animal or plant listed by regulation as being in danger of extinction. A “threatened species” is any animal or plant likely to become endangered in the near future.

## **WHAT ACTIVITIES ARE PROHIBITED?**

Without a permit, it is unlawful to import or export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale in interstate or foreign commerce; take (includes harm, harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect any wildlife within the U.S.); take on the high seas; possess, ship, deliver, carry, transport, sell, or receive unlawfully taken wildlife; remove and reduce to possession any plant from areas under Federal jurisdiction; maliciously damage or destroy an endangered plant on areas under Federal jurisdiction; and remove, cut, dig up, damage or destroy any

endangered plant in knowing violation of any State law or regulation, or in violation of a State criminal trespass law.

The prohibitions apply equally to live or dead animals or plants, their progeny (seeds in the case of plants), and parts or products derived from them.

## **WHAT ARE THE DIFFERENT TYPES OF PERMITS?**

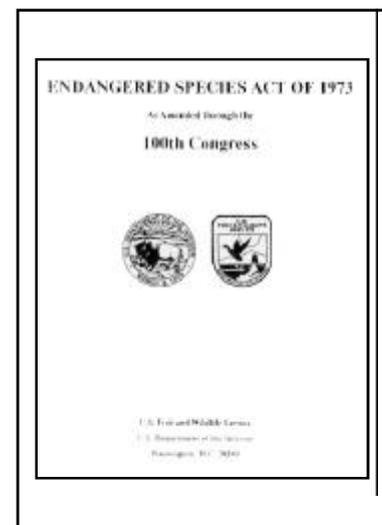
*Endangered species permits* may be issued for the following activities: scientific research; enhancement of propagation or survival of the species, including conservation education for living wildlife; incidental taking; and economic hardship situations.

*Threatened species permits* may be issued for all the activities listed above, as well as: zoological, horticultural, or botanical exhibition; education; and special purposes consistent with the Act.

*Captive-bred wildlife permits* may be issued to a person registered with the Service to buy and sell within the U.S. live, non-native endangered or threatened animals which were captive born in the U.S. for enhancement of species propagation, provided the other person is registered for the same species. A separate permit is needed to im-

port or export such species. See Office of Management Authority (OMA) Captive-bred Wildlife Registration fact sheet.

*Pets.* Permits are not issued to keep or breed endangered or threatened animals as pets. Using protected species as pets is not consistent with the purposes of the Act, which is aimed at conservation of the species and recovery of wild populations.



## **WHERE DO I APPLY FOR A PERMIT?**

Permit applications and instructions may be obtained from OMA. An application processing fee is required, and applicants should allow at least 90 days for processing. Permit applications for incidental take, interstate commerce or take of *native* species are processed by the



Regional Offices—contact OMA for addresses.

#### **WHAT SITUATIONS ARE EXEMPT FROM THE PROHIBITIONS OF THE ACT?**

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

*Antiques.* Antiques, including scrimshaw, can be imported into the U.S. if accompanied by documentation that shows the article is at least 100 years old and has not been repaired or modified with any part of an endangered or threatened species since December 28, 1973. Such antiques must enter through a U.S. Customs Service port. If the antique contains any species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the shipment must be accompanied by a Pre-Convention Certificate.

*Special Rules.* If a species is listed as threatened or as an experimental population, special rules designated to cover unique situations may al-

low otherwise prohibited activities. Some species covered by special rules include several primates, African elephant, American alligator, Nile crocodile, and leopard.

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

*Offer for Sale.* Endangered and threatened species may be advertised for sale provided the advertisement states that no sale may be consummated until a permit has been obtained from the Service.

*Loans and Gifts.* Lawfully taken and held endangered and threatened species may be shipped interstate as a *bona fide* gift or loan if there is no barter, credit, other form of compensation, or intent to profit or gain. A standard breeding loan, where no money or other consideration changes hands but some offspring are returned to the lender of a breeding animal, is not considered a commercial activity and, thus, is not prohibited by the Act and does not require a permit. Documentation of such an activity should accompany shipment.

*Hybrids.* Hybrids are offspring of animals or plants where each parent is from a different species/subspecies and where at least one parent is listed under the Act. Hybrid offspring of animals bred or

propagated in captivity are not protected by the Act. It is recommended that breeding records be maintained to show parentage and hybrid status. Other laws such as the Migratory Bird Treaty Act (MBTA) and CITES consider hybrids protected.

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

*Seeds from Artificially Propagated Threatened Plants.* No permits are required for prohibited activities for seeds from artificially propagated specimens of threatened plants. However, seeds must be accompanied by a label stating that they are of cultivated origin.

#### **WHAT OTHER OFFICE ISSUES PERMITS FOR ENDANGERED OR THREATENED SPECIES?**

The National Marine Fisheries Service (NMFS) has jurisdiction over certain listed aquatic species, including marine species such as whales and seals. NMFS has jurisdiction for sea turtles while in the water and the Service for sea turtles while on land.

#### **WHAT OTHER LAWS APPLY?**

Depending on the species involved, other requirements may need to be met under CITES, the MBTA, the Eagle Protection Act, the Wild Bird Conservation Act, the Marine Mammal Protection Act, and the Lacey Act.

