Presentation Outline

USFWS OLE History and the Wildlife Inspection Program

Laws Covering Wildlife Inspection Authority

Endangered Species Act and Directors Order 210

Importing CITES and US Endangered Species for exhibition

Ivory Policy
MISSION STATEMENT

Working with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people
WILDLIFE INSPECTORS: OUR ROLE

Regulate the multi-billion dollar international wildlife trade

Interdict and investigate illegal wildlife importation and exportation

Review and inspect wildlife shipments

Enforce US and foreign wildlife import/export laws

Identify thousands of species of wildlife – whole and parts
Authorized Federal Laws

- African Elephant Conservation Act
- Archaeological Resources Protection Act
- Bald and Golden Eagle Protection Act
- Endangered Species Act
- Lacey Act
- Marine Mammal Protection Act (MMPA)
- Migratory Bird Treaty Act (MBTA)
- Rhinoceros and Tiger Conservation Act
- Wild Bird Conservation Act
Endangered Species Act History

Lacey Act

1966 Endangered Species Act - Authorized land acquisition

1969 Endangered Species Conservation Act


ESA passed in 1973
Goal of the ESA

Goals

- Reduce or eliminate threats to listed animals and plants
- Restore self-sustaining wild populations
- Remove species from the list
- To implement treaties and conventions, including CITES, to which the U.S. is a party.
Prohibitions of the ESA

Unlawful to:

Take any such species

Possess, sell, deliver, carry, transport, or ship by any means any such species taken without authorization.

Engage in the trade or possess of any specimens contrary to the terms of the CITES

Unlawful to engage in business of importing/exporting wildlife without permission
CITES

An international trade agreement between foreign governments

Worldwide cooperation to prevent over-exploitation of wild animals and plants

Established to allow utilization and trade to continue at sustainable levels.
## CITES APPENDICES

<table>
<thead>
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<th>APPENDIX</th>
<th>Permit (s) Required</th>
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<td>Import &amp; Export CITES Document</td>
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<td>II</td>
<td>Export or Re-export CITES Document</td>
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<tr>
<td>III</td>
<td>Export CITES document or Certificate of Origin</td>
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Refer to www.cites.org for the most current listing information.
Pre-Convention Certificates

Pre-convention:
Exemption for specimens acquired prior to the first CITES listing date

Pre-Convention certificate is issued from the exporting country

On the document must indicate that the specimen is pre-convention and display a circa date, to establish age of specimen
### CITES PERMIT VALIDATION

#### Quantity, Stamp and Signature of Inspection Authority on Certificate

<table>
<thead>
<tr>
<th>Column</th>
<th>Description</th>
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</table>
| B 5 | Species: scientific name
| 6 | Species: common name
| 10 | Description of specimens
| 11 | Quantity
| 12 | Country of origin
| 13 | Number of CITES permit
| 14 | Date of issue
| 15 | Country of last re-export
| 16 | Number of CITES certificate
| 17 | Date of issue
| C 5 | Species: scientific name
| 18 | Special conditions: For live animals, this permit is only valid if the transport conditions conform to the Guidelines for Transport of Live Animals or, in the case of air transport, to the IATA Live Animals Regulations

#### Quantity actually exported

<table>
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<tr>
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<th>Description</th>
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<tr>
<td>A</td>
<td>1</td>
</tr>
<tr>
<td>B</td>
<td></td>
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<tr>
<td>C</td>
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#### Stamp of Swiss Customs inspecting on exportation

- Number: 503
- Date: 01.10.2008
- Expiry date: 31.03.2009

#### Signature of the Management Authority

Swiss CITES Management Authority
Travelling Exhibition

Travelling Exhibitions 50 CFR 23.49

The Management Authority where the travelling exhibition originated must issues the CITES document.

Travelling exhibition CITES document are valid for no more than three (3) years and is good for multiple border crossings. The certificate must indicate the wildlife is part of a travelling exhibition and is treated like a passport for export, import and re-export.

A travelling exhibition document is for the international travel of bred in captivity, artificially propagated or pre-Convention specimens. The certificates restricts the sale or transfer the specimens while travelling abroad.
Travelling Exhibition CITES Document
Validated at each Border Crossing
Ivory Policy and Procedures
Ivory Authorities

- Endangered Species Act
- Marine Mammal Protection Act
- African Elephant Conservation Act
- CITES
- 50 CFR Parts 14, 17 (Special Rule at 17.40(e), 18, and 23)
- Director’s Order 210
- Lacey Act
- Note: this presentation does not address whale and seal ivory that are regulated by NOAA-Fisheries

US Fish & Wildlife Service
Definitions

- Raw Ivory - AECA
  - 16 USC 4244 (10)

- Worked Ivory - AECA
  - 16 USC 4244 (13)

- Endangered Species Antique
  - 16 USC 1539 (h)

- Endangered Species Pre-Act
  - 16 USC 1538 (b)

- CITES Pre-Convention
  - 50 CFR 23.

- Marine Mammal Pre-Act
Ivory

- **Raw Ivory** is defined for African elephants as any African elephant tusk, and any piece thereof, the surface of which, polished or unpolished, is unaltered or minimally carved.

- **Worked Ivory** is defined for African elephants as any African elephant tusk, and any piece thereof, which is not raw ivory.
Endangered Species Antique

- Items that are
  - over 100 years in age,
  - are composed in whole or in part of any endangered or threatened species under the ESA,
  - have not been repaired or modified with any part of any such species on or after Dec. 27th, 1973.
  - are entered at a Customs antique port
CBP Antique Ports

U.S. Customs and Border Protection (CBP) designated 13 ports for the entry of antiques made of ESA-listed species on September 22, 1982 (19 C.F.R. 12.26). The following ports are authorized: Boston, Massachusetts; New York, New York; Baltimore, Maryland, Philadelphia, Pennsylvania; Miami, Florida; San Juan, Puerto Rico; New Orleans, Louisiana; Houston, Texas; Los Angeles, California; San Francisco, California; Anchorage, Alaska, Honolulu, Hawaii; and Chicago, Illinois.

*ESA Antiques imported prior to 09/22/1982, or created in the U.S. and never left are able to qualify for the ESA Antique exemption provided all other criteria are met*
Directors Order’s #210
African Elephant Conservation Act Moratoria
Strict Enforcement of the Endangered Species Act
African Elephant Conservation Act (AECA) Moratoria

Prohibits the importation of African Elephant ivory into the United States. Exemptions for Federal, State, tribal government agencies for law enforcement purposes, genuine scientific research, Inheritance, household moves, musical instruments and traveling exhibitions. Musical Instrument and travelling exhibitions, must be pre-Convention specimens, accompanied by a CITES passport like document, and not purchased after February, 25 2014.
Endangered Species Pre-Act

- Endangered or threatened wildlife that was held in captivity or in a controlled environment on December 27\textsuperscript{th}, 1973 (or the date of first listing) provided that such holding was not contrary to the ESA, and that the wildlife was not held in the course of a commercial activity.
Appraisal Requirement

Documentation must definitively prove the identity of the species and the age of item (i.e. DNA analysis, qualified appraisals, detailed provenance)

Qualified appraisals:

1. Obtained from an uninterested party to the importation/exportation
2. Include the appraisers' education and experience in assessing age and species identification
3. The scientific method in detail used to determine the age and species identification.
4. A description that is detailed and fluid enough to for the inspector to follow along with how the determination was made
5. Includes a description and/or photograph of the item being appraised.
ESA Pre-Act Status

- Pre-Act status may be established by a written declaration made under oath before a notary public or other authorized officer (affidavit) and must include certain information.
  - Statement regarding true and correct information and false statements
  - Records or other evidence that show:
    - That the wildlife was being held in captivity or a controlled environment on Dec. 28th, 1973 (or first date of listing)
    - The purpose for which the wildlife was being held
    - The nature of such holding (to establish that no commercial activity was involved)
CITES Pre-Convention

- Wildlife that is acquired from the wild, or parts or derivatives that were reduced to personal possession, before the first date of listing under the CITES Convention.
Marine Mammal Pre-Act

- Any marine mammal taken prior to December 21, 1972 or any marine mammal product composed in whole or any part of any marine mammal taken before December 21, 1972.
MMPA Pre-Act Status

• Pre-Act status must be established by a written declaration made under oath before a notary public or other authorized officer (affidavit), and must include certain information:
  • Information on the one making the affidavit
  • Description of the marine mammal
  • Statement regarding take prior to Dec. 21, 1972
MMPA Pre-Act Status cont.

- Statement regarding true and correct information and false statements
- Exhibits that include records or statements showing products are from pre-act marine mammals
- Statement from country of origin’s marine mammal agency that marine mammals/products were taken prior to Dec 21, 1972.
African Elephant
Director’s Order 210

• Commercial Import
  • No commercial imports allowed

• Noncommercial Import
  • Noncommercial import of ivory is allowed if the following criteria is met
    • Sport-hunted trophy (two per hunter per year) (July 06, 2016)
    • Threatened species import (50 CFR 17.32)
    • Law Enforcement and bona fide scientific specimen
    • Worked elephant ivory that was legally acquired and removed from the wild prior to February 26, 1976, and is either:
      – Part of a household move or inheritance
      – Part of a musical instrument
      – Part of a traveling exhibition
African Elephant
Special Rule (July 06, 2016)

• Export
  • Commercial export is only allowed for items that meet the ESA antiques exemption

• Non-commercial export categories
  • Must meet ESA antique criteria
  • Must meet Director’s Order criteria for worked ivory
  • Worked ivory that qualifies as pre-Act

• Raw ivory, including sport-hunted trophies, may not be exported
African Elephant
Special Rule (July 06, 2016)

• Foreign commerce is restricted to:
  • Items that meet ESA antique criteria
  • Certain manufactured or handcrafted items that contain a small (de minimis) amount of ivory

• Foreign commerce is prohibited for:
  • Sport-hunted trophies
  • Ivory imported/exported as part of a household move or inheritance
African Elephant
Special Rule (July 06, 2016)

- Interstate commerce is sale across state lines
  - Items that meet ESA antique criteria
  - Certain manufactured or handcrafted items that contain a small (de minimis) amount of ivory

- Interstate commerce is prohibited for:
  - Sport-hunted trophies
  - Ivory imported as part of a household move or inheritance
  - Law enforcement or scientific purposes
African Elephant

• Intrastate commerce is sale within a state
  • Ivory lawfully imported prior to the date the African elephant was listed in CITES Appendix I (January 18, 1990) [seller must demonstrate]
  • Ivory imported under a CITES pre-Convention certificate – [seller must demonstrate]
Asian Elephant

• Import
  • Commercial import is allowed for antiques with CITES pre-Convention certificates. See “Endangered Species Antiques.”

  • Non-commercial import is allowed for antiques and pre-Act/pre-Convention ivory (acquired before July 1, 1975), with CITES pre-Convention certificates. See “Endangered Species Pre-Act” and “Endangered Species Antiques.”
Asian Elephant

- Export
  - Commercial export is allowed for previously imported antiques with CITES pre-Convention certificates. See “Endangered Species Antiques.”
  
  - Non-commercial export is allowed for antiques and pre-Act/pre-Convention (July 1, 1975) ivory with CITES pre-Convention certificates. See “Endangered Species Antiques” and “Endangered Species Pre-Act.”
Walrus

- **Import**
  - Commercial and noncommercial import of pre-Act (walrus taken prior to December 21, 1972) ivory allowed with CITES pre-Convention certificates. See “Marine Mammal Pre-Act.”

- Returning noncommercial walrus ivory product is allowed as part of travel outside the U.S. provided it is the same person. See MMPA.

- Noncommercial walrus ivory product acquired outside the U.S. is allowed as part of a cultural exchange.

- Noncommercial walrus ivory product owned by a Native inhabitant of Russia, Canada, or Greenland is allowed as part of travels or as cultural exchange.
Walrus

• Export
  – Commercial and noncommercial export of pre-Act (Dec. 21, 1972) allowed with CITES pre-Convention certificates. See “Marine Mammal Pre-Act.”
  – Noncommercial export of ivory allowed with MMPA export permit (applies to items worked by Native Alaskans).
  – Noncommercial export of walrus ivory product allowed when part of travels or part of cultural exchange.
Helmeted Hornbill

• Import
  – Commercial import is only allowed for antiques with Pre-Convention certificates.
    • See “Endangered Species Antiques.”

  – Non-commercial import is only allowed for antiques, and pre-Act/pre-Convention ivory acquired before July 1, 1975, with pre-Convention certificates.
    • See “Endangered Species Antiques” and “Endangered Species Pre-Act.”
Helmeted Hornbill

• **Export**
  - Commercial export is only allowed for previously imported antiques with pre-Convention certificates. See “Endangered Species Antiques.”

  - Non-commercial export allowed for antiques, and pre-Act/pre-Convention (July 1, 1975) ivory with pre-Convention certificates. See “Endangered Species Antiques” and “Endangered Species Pre-Act.”
Hippopotamus

• Import and Export
  – Commercial and noncommercial import and export is allowed with CITES permits from the country of export or re-export.
Warthog

• Import and Export
  – Commercial and noncommercial import and export is allowed. Foreign export permits may be required from the country of export or re-export.
Migratory Bird Treaty Act

Prohibits to pursue, hunt, take, attempt to take, sell, offer for sale, barter, purchase, deliver for shipment, transport, possess, ship, export or import any migratory bird, any part, nest or egg.
Marine Mammal Protection Act

Dolphins, porpoises, whales, seals, sea lions (NOAA), manatees, dugongs, sea otters, marine otters, polar bears and walruses (USFWS)

it is unlawful for any person to import any marine mammal or marine mammal product into the United States taken from the wild prior to December 21, 1972

Trade in compliance with ESA, CITES & MMPA possible
CONTACTS

Division of Management Authority (DMA)
Arlington, VA
(800) 358-2104 or
(703) 358-2095

USFWS LEMIS Help Desk
(303) 275-2355 or
(970) 325-7270 (5am - 5pm MT)

Migratory Bird Permit Office
Portland, OR
(503) 872-2715
WEBSITES

USFWS – http://www.fws.gov

USFWS OLE – http://www.fws.gov/le/

CITES – http://www.cites.org

Electronic Declarations – https://edecs.fws.gov/

USFWS Public Bulletins

http://www.fws.gov/le/PubBulletins/PublicBulletin.htm