

ESA Overview Module 5 – Section 9 Prohibited Acts Text

Section 9 Prohibited Acts (Slides 1 – 9)

We now turn to the prohibitions in the Endangered Species Act – illegal activities involving endangered and threatened species, and the differences in protections for wildlife and plants.

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The objective for this module is for you to be able to . . . Recognize if an action is prohibited based on Section 9 of the ESA of 1973 . To reach this objective we will introduce and define terms associated with prohibited acts as they pertain to fish, wildlife and plants. We will also provide examples of prohibited acts for fish, wildlife and plants.

So, let's get started

We've learned in previous lessons that the Endangered Species Act provides a means by which ecosystems on which protected species depend are conserved. It's logical this law would include prohibitions – activities that should not occur because they compromise the goal of conservation of at-risk species.

Section 9 is that part of the Act that prohibits certain activities. Understanding actions that are prohibited is key to developing conservation projects that can be implemented efficiently and effectively.

For example, knowing it is illegal to hold a listed bird in captivity could prompt a researcher to plan ahead and get a Federal permit, thereby avoiding project delays. From the perspective of an applicant or another Federal agency, an understanding of prohibited acts ensures compliance with the Endangered Species Act as Federal actions are authorized, conducted, or funded.

Section 9 applies to any "person" under United States jurisdiction. The definition of a "person" is very brief in this slide. Essentially, every entity under U.S. jurisdiction is considered a person. This might be Federal employees, Federal agencies, state agencies, all of those fall under U.S. jurisdiction and must comply with these prohibitions.

The Endangered Species Act makes distinctions between prohibited acts against wildlife . . .

. . . and prohibited acts involving plants. They're not treated equally, and that's an important difference to understand. More about that later

Section 9 of the Act addresses five main areas:

- General prohibitions for wildlife and plants;
- Violations of the Convention on International Trade in Endangered Species of Wild Fauna and Flora;
- It also addresses fish and wildlife imports and exports; Import and export reports; and
- Designation of ports-of-entry for wildlife and plants, an example of a Port of Entry is the Cities of Miami or Anchorage

Now, regarding endangered wildlife: It's unlawful for any person to:

- Import into or export such species from the United States.
- It is unlawful to possess, sell, deliver, carry, transport or ship such species that have been taken illegally.
- It is unlawful to, deliver, receive, carry, transport or ship such species in interstate or foreign commerce in the course of a commercial activity,

- It is also unlawful to sell or offer for sale such species in interstate or foreign commerce and it is unlawful to violate any regulation regarding such species or for any threatened species listed under Section 4 of the ESA.

These comprehensive prohibitions indicate the concern Congress had when the Endangered Species Act was first passed in 1973. At that time, commercial trafficking in endangered and threatened species was a growing worry.

We're not going to spend any more time on commercial import and export prohibitions but the meaning of that word "take" and its relation to Section 9 merits greater detail.