



THE ESSENTIAL GUIDE TO THE U.S. TRADE IN
MATERIALS FROM PLANT
AND WILDLIFE PRODUCTS



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This guidance is not intended to be any form of legal advice.

ON THE COVER. Top: *Tortoiseshell*. Bottom: *Conch shell*.

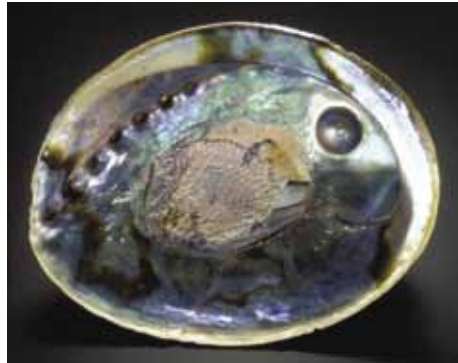
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THE ESSENTIAL GUIDE TO THE U.S. TRADE IN MATERIALS FROM PLANT AND WILDLIFE PRODUCTS



(Abalone)

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INTRODUCTION



(Rosewood)

PROTECTED MATERIALS USED IN JEWELRY: CORALS, IVORY, CONCH PEARLS, ABALONE, EXOTIC LEATHERS, HARDWOODS, TORTOISESHELL, BIRD FEATHERS

Products sold in jewelry stores often contain unusual and exotic materials—and it turns out that many of these products (including various types of “gems” and leathers) are regulated. If these materials are derived from protected plant or animal species or their parts, they raise important regulatory concerns for jewelers.

USFWS =
UNITED STATES FISH AND WILDLIFE SERVICE

This Essential Guide focuses on gem materials that have been classified by international, federal, and/or state laws as protected. Biologically produced “gems” are the products of living organisms and thus subject to various wildlife regulations. Requirements under these regulations include declaration and licensing permits from the United States Fish and Wildlife Service (USFWS) for importation and exportation and

additional declarations required by U.S. Customs and Border Protection (CBP) upon import. Certain materials are prohibited altogether. Violations of these laws can result in significant penalties, including delays in clearance, costly fines, seizure of goods, and possible jail time. This guide focuses specifically on what is required by federal law to import, export and trade in these goods. State wildlife conservation agencies often have additional regulations governing these products. To learn whether the purchase and sale of these products is legal in your state, check with your local conservation agency.

Compliance with the legal standards described in this Guide will protect vulnerable species and help you avoid unnecessary delays and enforcement actions.

This guidance is not intended to be any form of legal advice.

IMPORTANT TREATIES AND LAWS GOVERNING THE TRADE IN PROTECTED SPECIES

THE CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES (CITES)

The United Nations Convention on International Trade in Endangered Species (CITES), is an international treaty between more than 175 nations, including the United States. CITES entered into force on July 1, 1975. It aims to ensure that international trade in species of wildlife and plants, or their parts, does not threaten their survival. The treaty encourages international cooperation to safeguard certain species from over-exploitation. Currently, more than 33,000 plant and animal species are protected by CITES. CITES operates by creating certain controls through a permitting system (i.e. import/export permits) for international trade in various wildlife and plant products.

There are three levels of trade control under CITES. Materials listed in the various levels may vary based on a change in circumstances, and the lists should be monitored closely by those who engage in trade relating to affected species.

APPENDIX I. Includes species that are threatened with extinction. This level bans most international

commercial trade of any product listed therein, with trade permitted only in exceptional circumstances. Species with this listing are most vulnerable to extinction and include such things as Asian and some African elephants (see p. 8), rhinoceroses, tigers and sea turtles. *This level requires both an import permit from country of importation and an export permit from country of origin or exportation.* One of these permits is issued by USFWS when the U.S. is the country of import or export.

APPENDIX II. This level governs species that are not necessarily threatened with extinction, but may become so unless trade in such species is strictly regulated. *Commercial trade of these materials requires an export permit from the country of origin or a re-export certificate from any intermediary country, but no import permit from country of import.* Many corals are governed by these requirements.

APPENDIX III. This level includes species listed by a country seeking to obtain international cooperation in controlling trade in a particular species.

CITES	LEVELS OF TRADE CONTROL
APPENDIX I:	SPECIES THREATENED WITH EXTINCTION
APPENDIX II:	SPECIES THAT MAY BECOME EXTINCT UNLESS REGULATED
APPENDIX III:	SPECIES WITH COUNTRY-SPECIFIC REQUIREMENTS

IMPORTANT TREATIES AND LAWS GOVERNING THE TRADE IN PROTECTED SPECIES, *continues*

There are moderate trade restrictions, with trade permitted provided there is an appropriate CITES document from the country of origin or country of re-export.

A U.S. import permit for a CITES Appendix I species may be issued if all of the criteria are met. Trade in Appendix I specimens may take place only in exceptional circumstances as determined by USFWS. An export permit may be granted if trade will not be detrimental to the species' survival, and specimens were legally acquired. A CITES document is needed for a cross-border movement of items, including

those items that are altered after importation. In other words, each time a CITES-listed species (and/or their parts) enters or leaves a country, it requires a new CITES permit (see section "Obtaining Permits and Declarations" below for details on how to obtain such permits).

When exporting, always contact the CITES management of the importing country to determine whether an import permit is required. A contact list can be found on the CITES website: <http://www.cites.org/>.



(Conch Pearls)

ADDITIONAL FEDERAL LAWS RELATING TO PROTECTED SPECIES COMMONLY USED IN JEWELRY

Endangered vs. Threatened: What is the difference?

In addition to CITES listed species regulated by the international community, each country can have additional regulations on species they seek to protect. In the U.S., numerous species are listed in the Endangered Species Act (ESA) as either **endangered** or **threatened**. An **endangered** species is in danger of extinction and therefore requires more protective and regulatory measures; a **threatened** species is likely to become endangered within the foreseeable future. International trade in any species listed on the U.S. ESA is highly regulated and in many cases prohibited. Even certain threatened species are afforded additional protection by specifically targeted legislation and regulations within the U.S., so familiarity with the regulations is important.

U.S. ENDANGERED SPECIES ACT (ESA):
NO HARVESTING, IMPORT, EXPORT OR SALE OF
LISTED ENDANGERED OR THREATENED SPECIES.

Here are some of the laws affecting species trade in the U.S.:

Endangered Species Act (ESA)

ESA implements CITES in the U.S. This act makes it illegal for any person subject to U.S. jurisdiction to import, export, deliver, receive, carry, transport, or ship in interstate or foreign commerce for commercial purposes **all** endangered and **most** threatened

species or parts thereof. It also forbids sale or offer for sale of these products in interstate or foreign commerce. Endangered and threatened species must be placed on a special list via regulation in order for ESA provisions to apply. Always consult your nearest USFWS office if ever unsure of the legality of your goods.

Marine Mammals Protection Act (MMPA)

The Marine Mammals Protection Act of 1972 calls for natural resource management and conservation of marine mammals. It declares a moratorium on the import, export, and sale of any marine mammal part or product within the United States, with few exceptions.

African Elephant Conservation Act (AECA)

The AECA is a U.S. law that provides African elephants additional protection beyond ESA and CITES. Currently, worked African elephant ivory may be imported if 1) it is a bona fide antique (commercial and non-commercial) as defined in the ESA statute, and 2) pre-CITES (February 26, 1976) and not part of a commercial transaction prior to import.

Sale with the U.S. after importation is only allowed for antique (as defined in ESA) and pre-CITES specimens.

Raw African elephant ivory can only be imported as a sport-hunted trophy with appropriate CITES documents and cannot be exported or re-exported.

IMPORTANT TREATIES AND LAWS GOVERNING THE TRADE IN PROTECTED SPECIES, *continues*

"ANTIQUÉ" UNDER ESA

- 1) NOT LESS THAN 100 YEARS OLD
 - 2) COMPOSED IN WHOLE OR IN PART OF LISTED SPECIES
 - 3) NOT BEEN MODIFIED OR REPAIRED
 - 4) ENTERED THROUGH A DESIGNATED ANTIQUES PORT (SEE P. 11)
-

Such ivory may not be sold after import (e.g., you may not purchase a tusk from a hunter to transform into jewelry).

Lacey Act (LA)

The Lacey Act imposes restrictions for importing animal and plant species taken, possessed, transported, or sold in violation of foreign law. Thus, if you are

in the U.S., and import a product protected abroad, you violate a U.S. federal law.

Migratory Bird Treaty Act (MBTA)

The Migratory Bird Treaty Act implements various treaties and conventions between the U.S. and Canada, Japan, Mexico and the former Soviet Union for the protection of migratory birds. Under the Act, taking, killing or possessing migratory birds is unlawful. Unless permitted by regulations, the Act provides that it is unlawful to pursue, hunt, take, capture or kill; attempt to take, capture or kill; possess, offer to or sell, barter, purchase, deliver or cause to be shipped, exported, imported, transported, carried or received any migratory bird, part, nest, egg or product, manufactured or not. Feathers from such migratory birds could be a "part" often used in the jewelry trade for pieces like earrings.



(Ivory)

AFFECTED MATERIALS USED BY THE JEWELRY INDUSTRY

CORALS

Coral reefs are one of the most endangered ecosystems on the planet today. Coral is actually an animal, composed of the external skeletal remains of the coral polyp, a tiny sea creature. They are threatened by rapidly warming ocean waters, harmful bacteria, as well as pollution and destructive fishing methods. Coral can occur in the expected red or orange, and also in pink, gold, white, blue, and black. Gem quality coral is primarily found in the Mediterranean, as well as in the Pacific Ocean off the coast of Japan and Taiwan. There are two types of coral: reef and deep sea. The jewelry industry typically utilizes deep sea coral and blue reef coral. These corals are regulated under international law as CITES Appendix II (may become extinct unless protected). Some other species of red corals (also used in the jewelry trade) are listed as CITES Appendix III (subject to controls). It is critical to know which species of red coral you are using before engaging in international trade of this material.

As of the date of this publication, the only coral legally harvested in United States territory is black coral in Hawaii. All other corals are imported, primarily from China.

For requirements regarding importing, exporting and selling this material, please see the section below titled “USFWS Import/Export License and Filing Declarations” (p. 10). If you are purchasing this material with the intent to export for sale, it is important to verify that the seller has the appropriate

CITES permit. You will need to provide a copy of the CITES document used to import the specimen in order to get a re-export certificate from USFWS.

IVORY

Ivory comes from the dentine of certain species, including but not limited to African and Asian elephants, whales, walrus, and hippopotamus. Each species is subject to different regulations. All ivory, unless it is from a warthog, is protected either by CITES and/or ESA. The ivory that can be imported or exported (pre-Convention, sport-hunted trophy,

AFRICAN ELEPHANT IVORY TRADE PERMITTED (WITH PROPER PERMITS AND DECLARATION ONLY IF:

- ANTIQUE (SEE P. 6), OR
- PRE-CONVENTION (REMOVED FROM WILD PRIOR TO FEBRUARY 4, 1977, FOR COMMERCIAL AND NON-COMMERCIAL TRADE), OR
- SPORT-HUNTED TROPHY

ASIAN ELEPHANT TRADE PERMITTED (WITH PROPER PERMITS AND DECLARATION) ONLY IF:

- ANTIQUE (SEE P. 6) OR
 - PRE-CONVENTION (REMOVED FROM WILD PRIOR TO JUNE 14, 1976, NOT BEEN COMMERCIALY HELD, ACCOMPANIED BY PRE-ACT AFFIDAVIT, CAN ONLY BE SOLD IN YOUR STATE)
-

AFFECTED MATERIALS USED BY THE JEWELRY INDUSTRY, *continues*

antique, for non-commercial purposes) requires a permit from USFWS. Warthog ivory, although not requiring permits, still requires a declaration to USFWS upon import to or export from the U.S.

African elephant ivory is more commonly utilized for gem quality ivory, because Asian elephants have smaller tusks. Asian elephants are endangered under U.S. federal law and highly protected internationally. African elephants are also protected under U.S. federal law. The African elephant populations in Botswana, Namibia, South Africa and Zimbabwe are listed on Appendix II of CITES and as threatened under ESA, allowing for limited commerce in specified products such as skin or hair, but **never ivory**. Imports of all African elephant ivory into the U.S. are prohibited with few exceptions.

For requirements regarding importing, exporting and selling this material, please see the section titled “USFWS Import/Export License and Filing Declarations.” No one can import or export elephant ivory without a permit issued by USFWS. If you are purchasing this material with the intent to import for sale in the U.S., it is important to verify that the seller has not violated local laws, and that your foreign supplier has obtained the appropriate CITES export documents prior to the shipment arriving in the U.S.

TORTOISESHELL

There are seven existing species of sea turtles. Tortoiseshell used in jewelry primarily comes from the hawksbill turtle, which is found mostly in the Pacific and Indian Ocean and is specifically hunted for its shell. All seven species of sea turtles, including the hawksbill, are protected under CITES Appendix I (threatened with extinction), and species are listed as either endangered or threatened under U.S. federal law. This means that no one can import, export, and/or harvest tortoiseshell and it cannot be used in jewelry (or elsewhere), without appropriate permits from USFWS.

For requirements regarding importing, exporting and selling this material, please see the section titled “USFWS Import/Export License and Filing Declarations.” If you are purchasing this material with the intent to import for sale, it is important to verify that the seller has not violated local laws, and you must confirm that your foreign supplier has obtained the appropriate CITES export documents prior to the shipment arriving in the U.S.

QUEEN CONCH AND ITS PEARL

A queen conch pearl, produced by the queen conch snail found primarily near the Caribbean Sea and the Gulf of Mexico, is extremely rare. These mollusks are found primarily in the Caribbean, near southern Florida. The pearls they produce are natural and highly prized. They come in pink, yellow, brown,

white, or golden. **Currently, there is an international trade ban and embargo on the queen conch and its pearls from Honduras, Haiti, and the Dominican Republic.** The U.S. does not list the queen conch as endangered or threatened, however both the sea snail (shell and meat) and the pearl it produces are protected under CITES Appendix II (may become extinct unless protected). The harvesting of queen conch is prohibited in Florida and adjacent federal waters.

For requirements regarding importing, exporting and selling this material, please see the section titled “USFWS Import/Export License and Filing Declarations.” If you are purchasing this material with the intent to import for sale, you must confirm that your foreign supplier has obtained the appropriate CITES export documents prior to the shipment arriving in the U.S.

ABALONE

Abalone refers to the inner shell of the abalone mollusk. It resembles mother-of-pearl. This shell is used in jewelry as well as inlay work on musical instruments and furniture. There are nine different species of Abalone living in North American waters. Since 2008, white Abalone is considered endangered under U.S. federal law (ESA) for the California region south to Baja California, Mexico. This means that no one can import, export, and/or harvest that species of Abalone and it cannot be used in jewelry (or elsewhere), without a permit issued from the USFWS.

For requirements regarding importing, exporting and selling this material, please see the section titled “USFWS Import/Export License and Filing Declarations.”

EXOTIC LEATHERS

Skins (leathers) from crocodile, python, stingray, shark, snakes, lizards, are used as watch straps and in jewelry design. The regulations on these animals vary greatly depending on species and population. However, they are still subject to inspection upon import by



(Stingray)

CBP and USFWS officials and therefore require a CBP and USFWS declaration if imported (and USFWS declaration if exported).

AFFECTED MATERIALS THAT IMPACT THE JEWELRY INDUSTRY, *continues*

WOODS

Certain woods are used in the production of jewelry including ebony and rosewood. The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) regulates the importation of wood and wood products. APHIS requires wood and wood products to undergo certain procedures prior to importation in order to eliminate the risk of introducing non-native pests and diseases into the

United States. Both exporters and importers face additional requirements if the wood is listed under CITES, which includes both ebony and rosewood.

A full listing of the timber species covered under CITES can be found at the Certified Wood Organization at this address: <http://www.cites.org/eng/app/appendices.php>.

USFWS IMPORT/EXPORT LICENSE AND FILING DECLARATIONS

In order to import or export wildlife commodities into or out of the United States, a USFWS Import/Export License is required prior to import or export. The application for the license (Form 3-200-3) can be obtained on-line at: <http://www.fws.gov/le/le-permits.html>.

Wildlife commodities being imported or exported into or out of the United States must also be declared to USFWS and CBP. Declarations submitted must

contain a completed USFWS declaration form (3-177), original wildlife permits where required, copies of packing lists/invoices, air waybills, CBP entry declaration forms and applicable inspection fees. For imports, USFWS declarations must be submitted/cleared prior to CBP release.

See this USFWS link for specific instructions: <http://www.fws.gov/le/commercial-wildlife-shipment.html>.

EXEMPTIONS FOR JEWELRY RETAILERS AND COLLECTORS

- CHECK WITH FISH AND WILDLIFE BEFORE IMPORTING OR EXPORTING
 - OBTAIN NECESSARY PERMITS
 - USE SPECIFIC DESIGNATED PORTS
 - DECLARE THE SHIPMENTS TO FISH AND WILDLIFE AND CUSTOMS & BORDER PROTECTION
 - MAKE PERMITS AVAILABLE FOR INSPECTION
-

In most cases, no endangered species may be imported or exported, no matter the form. However, there are limited exceptions for pre-Act or antique goods and sports trophies. Call your nearest USFWS wildlife office **BEFORE** importing or exporting to verify the legality of your materials. If your goods are legal to import or export, the goods must be imported or exported through specific ports authorized to handle trade in fish, wildlife, and endangered species known as “Designated” ports (see list below); you must declare these shipments to both the USFWS and CBP; and you must make all permits available for physical inspection.

USFWS-DESIGNATED PORTS:

ANCHORAGE	MEMPHIS
ATLANTA	MIAMI
BALTIMORE	NEW ORLEANS
BOSTON	NEWARK
CHICAGO	NEW YORK
DALLAS-FORT WORTH	PHILADELPHIA
HONOLULU	PORTLAND
HOUSTON	SAN FRANCISCO
LOS ANGELES	SEATTLE
LOUISVILLE	

Corresponding phone numbers for these ports can be found at the following address: <http://www.fws.gov/le/ports-contact-information.html>.

The two relevant exceptions to ESA and import bans are the pre-act exemption and the antiquities exemption.

PRE-ACT EXEMPTION

Prohibitions in ESA do not apply to any fish or wildlife held in captivity or a controlled environment on or before December 28, 1973, provided that such holding or control was not in the course of a commercial activity. Therefore, possession of a now-illegally used material in a piece of jewelry would be exempt provided that you can establish that there was no sale of the item after the ESA entered into force in 1973.

In summary, you may import/export pre-act non-antique endangered or threatened listed species only for non-commercial purposes with a CITES pre-convention permit and a pre-act affidavit attesting that the material was held in captivity before 1973.

EXEMPTIONS FOR JEWELRY RETAILERS AND COLLECTORS, *continues*

ANTIQUITIES EXEMPTION

Articles otherwise prohibited by ESA may be eligible for an antiquities exemption, granted if the article is: not less than 100 years old; has not been repaired or modified with any part of any endangered or threatened species, it was imported through a CBP antique port or after December 28, 1973; and a Declaration for Importation or Exportation of Fish or Wildlife (USFWS Form 3-177) is filed at the time of entry with USFWS.

CBP ANTIQUE PORTS:

ANCHORAGE
BALTIMORE
BOSTON
CHICAGO (O'HARE INTERNATIONAL AIRPORT)
HOUSTON
LOS ANGELES
MIAMI
NEW ORLEANS
NEW YORK
PHILADELPHIA
SAN FRANCISCO



(Tortoiseshell)

STATE LAWS REGARDING ENDANGERED SPECIES

STATE LAWS: SOME STATE CONSERVATION AGENCIES BAN THE SALE OF IVORY, EVEN IF IT QUALIFIES FOR AN IMPORT/EXPORT EXEMPTION. BE SURE TO CHECK!

Many states have passed their own endangered species laws, some of which provide for listing of species that are endangered only in that particular locality.

Others have fish and wildlife laws and regulations that are stricter than federal laws and regulations. **Be sure to check your state's fish and wildlife laws.**

PENALTIES AND FINES

CITES and ESA are enforced primarily by the federal agency USFWS. Many states have even stricter laws and penalties, and you should know and understand the laws of each state in which you engage in commercial activity with these materials. Federal law provides for three different provisions for enforcement: citizen suits, civil penalties, and criminal penalties. Civil penalties for violating ESA or CITES are up to \$25,000 per violation. Criminal penalties for knowingly violating ESA or CITES include fines

up to \$50,000 and/or up to 1 year imprisonment and seizure of the goods. ESA is a strict liability statute, where forfeiture is not dependent on knowledge if a violation is committed. Remember: ignorance of this law is not an excuse. Simply transporting an affected product across state or international borders or selling products containing endangered materials without the proper permits or declarations can expose you to penalties.

OBTAINING PERMITS AND FILING DECLARATIONS

ALL SHIPMENTS THAT CONTAIN WILDLIFE MATERIALS MUST BE DECLARED UPON IMPORT TO USFWS PRIOR TO CLEARING CUSTOMS.

A CITES permit must be presented to USFWS upon import or export (or re-export) for all CITES listed species. If the material is covered by other acts (e.g. MMPA or ESA) those permits must also be presented to USFWS upon import or export. Non-protected species, even though they do not require additional permits, must also be declared to USFWS.

These permits are issued by the USFWS Division of Management Authority (DMA). You can find more information at <http://www.fws.gov/international/> or contact them at 1-800-358-2104.



(Coral)

IMPORTANT WEBSITE RESOURCES FOR PERMITS, PAPERWORK, INSTRUCTIONS, ETC.

US FWS Law Enforcement Homepage:

<http://www.fws.gov/le>

US Fish & Wildlife Service / Management & Scientific Authorities / International Affairs Homepage:

<http://www.fws.gov/international>

Buyer Beware Brochure from the World Wildlife Foundation:

<http://www.worldwildlife.org/what/globalmarkets/wildlifetrade/WWFBinaryitem5693.pdf>

CITES Website:

<http://www.cites.org/>

FWS Publication on CITES:

http://www.fws.gov/international/DMA_DSA/CITES/pdf/CITESfall01.pdf

FWS Brochure on CITES and Timber:

http://www.fws.gov/international/DMA_DSA/CITES/pdf/Cites_eng.pdf

FWS Publication on CITES Permits and Certificates:

http://www.fws.gov/international/DMA_DSA/CITES/pdf/cpc.pdf

CITES Appendix I, II & III:

<http://www.cites.org/eng/app/appendices.php>

APHIS Plant Declaration Forms:

http://www.aphis.usda.gov/plant_health/lacey_act/downloads/declarationform.pdf

USFWS Declaration for Importation or Exportation of Fish or Wildlife:

<http://www.fws.gov/le/declaration-form-3-177.html>

U.S. Customs Import and Export Information:

http://www.cbp.gov/xp/cgov/trade/basic_trade/



(Ebony)



AGTA

AMERICAN GEM TRADE ASSOCIATION

JVC JEWELERS
VIGILANCE
COMMITTEE
The Industry's Guardian of Ethics and Integrity

