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"These Laws Are For The Birds"

by Rick Jordan
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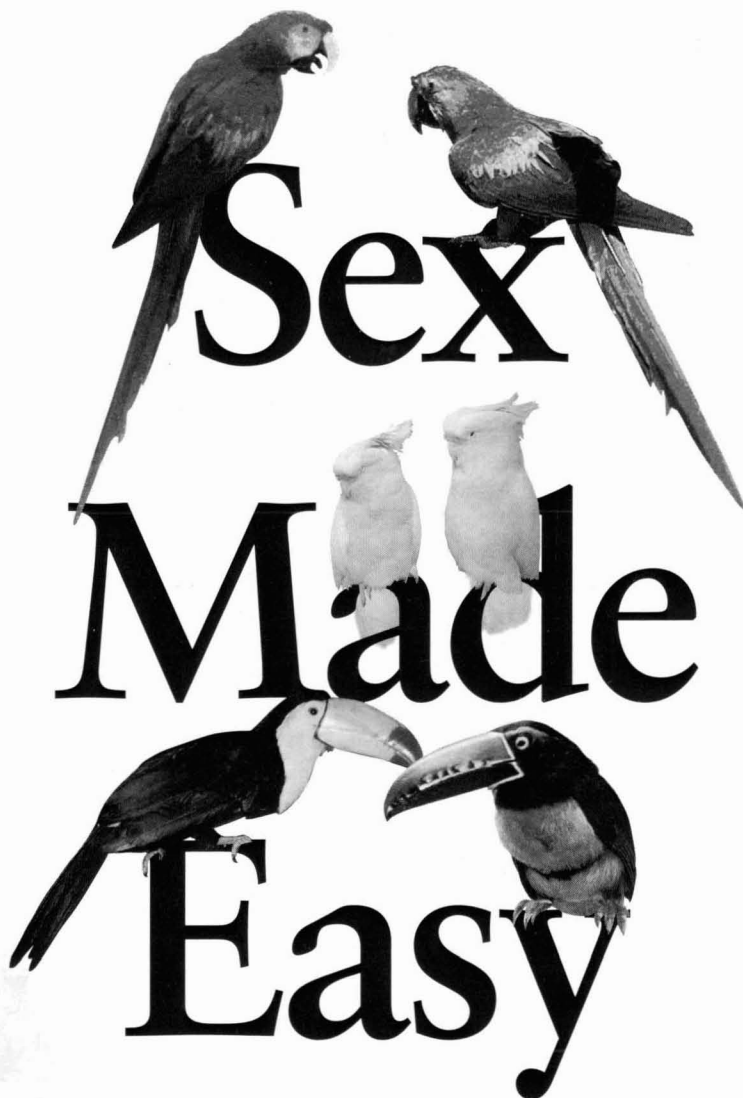
Nothing could be more confusing than the listings of Endangered or Threatened Species and how the many different regulations govern their sale or movement. Being involved with aviculture, we often hear of a species being added to CITES Appendix I or to the United States Endangered Species Act (ESA) but we are not really sure what that means when it comes down to the breeding, sale, loan, or possession of that particular bird. This article is an attempt to clarify some of the most commonly asked questions pertaining to these different lists and the regulations that govern each one.

It is no wonder that aviculturists become a little confused when dealing with laws and regulations. We are subject to several different lists of endangered species as well as Federal, State, and Local laws that may pertain to common birds as well as the endangered ones. Then to confuse matters even more, many State level laws are written to protect native wildlife from that particular state but they define the term wildlife in such a way that it could include lions and tigers and bears, not to mention cockatoos. Some birds are controlled by the Federal Fish and Wildlife Service. Some birds are controlled by only the State laws, and then others are prohibited by a local ordinance. Who could possibly have the time to understand all of these laws? Actually, you, as an aviculturist must learn these laws and become a responsible citizen. This may be the only way to prevent more laws such as these from being passed.

To simplify the structure of our laws just a little, consider that we, as Americans, are governed by a multiple tier system of laws. First, we are subject to Federal laws set forth by the Federal

Government. Secondly, we are governed by States laws that pertain only to those people that reside in or do business in, a certain state. And, third there are further restrictions that are set down by local municipalities that may further restrict actions in that local area. These agencies do not always have the same rule for certain activities. Take the speed limit on unmarked, open, highway systems, for example. The Federal law says that the automobile speed limit shall not be higher than 65 miles per hour. This allows the State or local government to further define this limit if they care to do so. The State Government cannot set a speed limit higher than that of 65 mph, however, they can set a limit that is less. So, in many States laws have been enacted that placed a 55 mph speed limit on all unmarked, open, highway systems and interstate highways. This law is still very valid even though the Federal law allows for a faster speed. Local municipalities may reduce the speed even further in certain areas because of bad roads or hazardous areas. This is an example of the tier system in government.

Similarly, the laws that govern Endangered or Threatened Species are set up as a multiple tier system. At the top, we have a set of rules that govern what can and cannot be done on the International level. Many countries across the world have signed a pact to abide by the rules of this convention. This convention is referred to as CITES (Convention on International Trade in Endangered Species). Under the rules set forth in this convention, there are different appendices. These appendices contain lists of animals and plants that are endangered or threatened throughout the world. Because the United States is a participant of this convention, we must abide by the



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recommendations governing these lists. Of the three major lists, Appendix 1, 11, and 111, animals or plants that appear on Appendix I would be the most endangered and those listed on Appendix III would be the least, so to speak. Each appendix is defined in terms of what can and cannot be done with these animals on an INTERNATIONAL level. CITES is a convention made up of many countries and governs what can be done with listed species between two or more of those countries. Each country still has the right to pass other laws that may govern activities within that particular country. It has little to do with the interstate commerce of listed species.

As an aviculturist, the rules of the CITES convention apply to you when you make application to send a listed bird out of the country or when you apply to bring a listed bird into the country. The federal government has written regulations that contain most of the recommendations made at this convention.

These regulations tell the individual exactly how to apply for an international export or import permit for any listed species. When this permit is issued, it is stamped with the CITES seal signifying that the movement of the specimen is in accordance with the convention rules.

Within the United States itself, the federal government enacted some laws to further protect some of the listed species. If the international movement or use of some of these species warranted restriction, maybe it would be even more advantageous to restrict the movement or use of some of these species within the boundary of the United States. Taking into consideration the listed animals, birds, and plants, the federal government organized a law (50 CFR) or Title 50, Code of Federal Regulations. Part 17 of this regulation governs "Endangered and Threatened Wildlife and Plants". It is also known as the ESA or Endangered Species Act.

Under the ESA, there is a list of wild-

life and plants that has been compiled by our own government. A complete set of rules has also been written to govern the sale, loan, movement, or use of the listed species. These rules apply to INTERSTATE transactions involving the listed birds, animals, and plants. The law does not prohibit the interstate sale or movement of listed species, it only regulates how it can be done. Once again, not all CITES listed species appear on the ESP plan and so not all CITES listed animals and birds are subject to this Federal Code. As a matter of fact, pertaining to Psittacines, there are actually very few birds on the list, 24 to be exact as opposed to at least 57 Psittacines that are listed in the CITES appendices. The following is a list of the 24 species that are governed by 50 CFR. They are the Endangered Species Act (ESA) birds.

The rules that apply to these 24, ESA listed birds, are fairly simple. All rules are written so as to protect the listed birds. In order to sell a listed bird, both the buyer and the seller must be registered with the Federal Government and possess what is known as a Captive-bred Wildlife Permit (CBW). This permit only authorizes the movement or sale of listed species that have been born in captivity here in the United States. If a breeder wishes to sell wild-caught stock they must obtain an Interstate Commerce Permit which is governed by a separate set of rules.

The following set of rules apply to the 24 species of birds listed on the United States Endangered Species Act (ESA) and are governed by 50 CFR, part 17.

1. If captive-born offspring of a listed bird is to be sold across state lines, both the buyer and the seller must possess a Captive-bred Wildlife (CBW) permit that lists that particular species as a permitted activity.

2. The sale of wild-caught stock of a listed bird cannot be accomplished on a CBW permit. An Interstate Commerce Permit must be obtained from the same office listed above. The buyer is responsible for the acquisition of this permit and must justify how this purchase would "enhance" the species as a whole.

3. An exchange of birds between two people in different states is considered a SALE, and would require a permit, if the exchange is not "even". For example: to exchange one Vinaceous Amazon for another Vinaceous Amazon is considered an even trade and would not require a permit. However, the exchange of one Vinaceous Amazon for five Yellow-naped

ESA Psittacines

1. Forbes' Parakeet *Cyanoramphus auricepsforbesi*
2. Golden Conure (Queen of Bavaria) *Aratinga guarouba*
3. Golden-shouldered Parakeet (Hooded) *Psephotus chrysopterygius*
4. Mauritius Parakeet *Psittacula echo*
5. Norfolk Island Parakeet *Cyanoramphus novaezelandiae cookii*
6. Ochre-marked Parakeet
Blue-throated Conure *Pyrrhura cruentata*
7. Orange-bellied Parakeet *Neophema chrysogaster*
8. Scarlet-chested Parakeet (splendid) *Neophema splendida*
9. Paradise Parakeet *Psephotus pulcherrimus*
10. Turquoise Parakeet (turquoise) *Neophema pulchella*
11. Australian Parrot *Geopsittacus occidentalis*
12. Bahaman or Cuban Parrot *Amazona leucocephala*
13. Ground Parrot *Pezoporus wallicus*
14. Imperial Parrot *Amazona imperialis*
15. Puerto Rican Parrot *Amazona vittata*
16. Red-browed Parrot *Amazona rhodocorytha*
17. Red-capped Parrot *Pionopsitta pileata*
18. Red-necked Parrot *Amazona arausiaca*
19. Red-spectacled Parrot *Amazona pretrei pretrei*
20. Red-tailed Parrot *Amazona brasiliensis*
21. St. Lucia Parrot *Amazona versicolor*
22. St. Vincent Parrot *Amazona guildingii*
23. Thick-billed Parrot *Rhynchopsitta pachyrhyncha*
24. Vinaceous-breasted Parrot *Amazona vinacea*

Amazons would require a permit.

4. Breeding loans, where no money exchanges hands, would not require a permit to move the birds across state lines. If money is involved or the uneven exchange of birds is involved, a permit is required.

5. Donations (giving) of listed birds across state lines does not require a permit

6. Selling, donating, loaning, exchanging, or possessing listed birds within the boundary of the same state does not require a Federal Permit. It may, however, require a State level permit. Contact your State Fish and Game Commission to be sure.

7. The offer for sale, across State lines, of any listed animal must include the words: "Federal Permits Required" within the advertisement.

8. For a "One Time" purchase of an ESA species, across state lines, there is an exception that would not require the purchaser to acquire a Captive-bred Wildlife Permit. Under this exception, an Interstate Commerce Permit can be acquired. Once again, "enhancement of the species as a whole" is the premise for the issuance of this permit.

These eight rules are a simplification of the law. They are meant to demonstrate what activities require a Federal Permit prior to the movement of the listed birds. All birds on the list are subject to this law. Color mutations or hybrids of any listed species are also included in these restrictions.

The laws and rules listed above are Federal Laws. Depending on the State in which the activities are taking place, additional State laws may exist and pertain to the movement, sale, or possession of these birds. It is always wise to notify your local Fish and Game Commission before engaging in any activity involving an endangered bird. It is unfortunate that these birds are so heavily restricted. The complicated legal system governing these birds has discouraged many talented aviculturists from breeding them. This is one "negative" to the regulation of listed birds.

Of the list of endangered and threatened species on the ESA, one bird is considered indigenous to the United States. Although this has not been proven, scientifically, the Thick-billed parrot is listed as an indigenous species (historically) and is the most highly

regulated bird on the ESA list. Not only is it regulated by CITES and the United States Endangered Species Act, it is also regulated by a separate set of rules that apply to indigenous or migratory species of the United States.

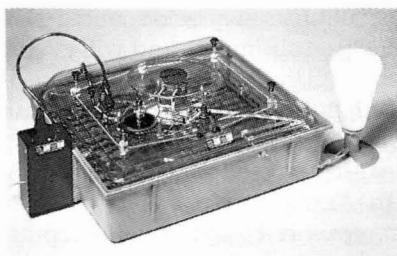
As of right now, no CBW permits are being issued to sell, trade, buy, or possess the Thick-billed parrot. It is not illegal to possess them according to the Federal Government, however, if you do breed them you cannot get a CBW permit to sell the offspring across state lines. You may give them away or loan them to another breeder. No money can be exchanged in either of these transactions. In some instances, an Interstate Commerce Permit may be acquired. This has resulted in there being no "commercial value" of this species. In some respects this could be good. However, when you examine the history of aviculture, and bird breeding in general, those species that have had a low commercial value have disappeared from the aviary. No one was interested in breeding them because there was no way to regain the money that was spent to maintain them. Now they are very difficult or impossible to find in America.



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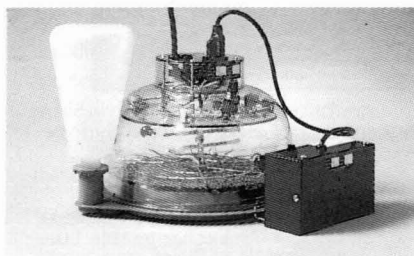
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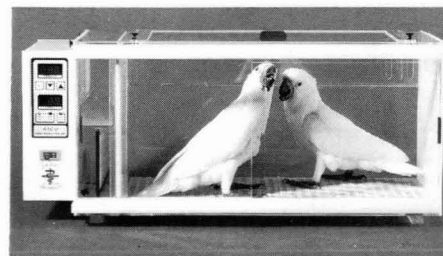
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Ironically, because some of these low priced birds became so rare, they are once again in demand. Their commercial value has risen and breeders are now trying to find the ones that remain in American aviculture. It appears that, even though aviculture requires a dedication to the birds, it also requires some type of financial gain in order to work to its fullest potential. The deregulation of some of the rarer species may spark an interest in breeders and the birds would be bred in larger numbers. This point is very difficult to explain to the government or to the animal rights groups who feel that economics have nothing to do with saving an endangered species. What we all need to realize is that economics plays a major role in the entire picture involving these species. If it were not for the commercial value of the lumber and the land, the habitat of many of these birds would still remain. Economics can destroy a species or save a species. Perhaps we should consider this the next time we try to pass a law governing the sale, exchange, loan, or breeding of any animal in captivity.

There exists one more law that should be discussed: The Wild Bird

Conservation Act of 1992 (WBCA). This law is affectionately known as the "No more imports" law. This statement is not entirely true although trying to secure a permit may convince you otherwise.

The birds that are governed by this law are, once again, all the species that are listed in the three appendices to the CITES convention. Since over 90% of all Psittacine birds are listed in one of the three appendices, this law basically covers all parrots.


In an attempt to stop the mass importation of wild birds for the pet-trade, Congress and the President passed the WBCA to limit the capture of wild-caught birds for importation into the United States. This law does not prohibit importation, it only regulates it. However, in order for anyone to import a bird, other than a long-term pet, they must apply for a Cooperative-breeding program for that particular species. Cooperative-breeding programs must be designed for the enhancement of the species both in the wild and in captivity. A goal that is very difficult to achieve without the use of one's imagination.

If application is made and passed for the formation of a cooperative-breed-

ing program, all birds and their respective offspring are monitored by the Federal Government. The requirements include genetics management protocol, approved husbandry experiences, sound record keeping practices, and eventual disposition of all offspring produced. Annual reports are required and the program itself must be reviewed and re-approved every two years. It is doubtful that any of these programs will be approved for the breeding of a species to be sold into the pet-trade.

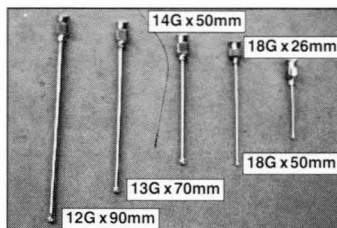
Most responsible aviculturists would have no problem with a program structure as this. However, the law includes all captive-bred birds as well as wild-caught. This has made this law very difficult to accept by legitimate breeders who wish to exchange captive-bred young with breeders in other countries. It actually goes against the intent of the CITES convention that has recently recognized the importance of captive-breeding in the conservation of many species. With the exchange of captive-bred birds so heavily regulated, and the importation of new blood-lines so expensive and time consuming, many of the rarer Psittacines will not be present in American aviculture in the future. This is a sin that can be directly attributed to the passing of the WBCA.

So, as you can see, regulation of birds both nationally and internationally has made our dedication to the birds a matter of paperwork. Some very talented aviculturists may be discouraged by the new requirements and will eventually channel their talent in other directions. With the daily destruction of the rainforest and other habitats, this is not the time to discourage captive-breeding in America. As the leaders in the production of captive-bred psittacines, our reputations will begin to dwindle. Eventually, foreign breeders will no longer look to America for new blood-lines for some of their rare and wonderful parrots. We will be regarded as "third world" parrot breeders like the few countries that have also enacted a "no importation" system. If all of these laws are really passed "For the birds", they will not succeed in their intent.

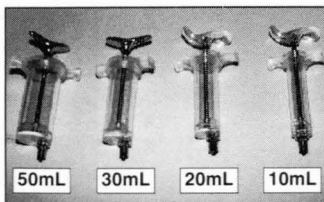
"Let wild birds fly". A very common statement made by the animal rights groups and some of the welfare groups as well. I often wonder if any of them ever stop to consider that the day is fast approaching when wild birds will only be able to fly from one window ledge to another? 

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