

## **Salmon-Crested Cockatoo Final Listing and Special Rule Questions and Answers**

### **What action is the U.S. Fish and Wildlife Service taking?**

The U.S. Fish and Wildlife Service (Service) is publishing a final rule listing the salmon-crested cockatoo (*Cacatua moluccensis*) as threatened with a special rule under the Endangered Species Act (ESA). This determination follows a comprehensive review of available scientific information indicating the species should be listed as threatened. The listing will become effective 30 days after publication in the *Federal Register*.

The Service previously published a proposed rule to list the species on November 3, 2009. In the proposed rule, the Service requested that all interested parties submit written comments on the proposed listing and the agency has addressed those comments in this final rule. The Service did not receive any requests for a public hearing.

### **What is the process for adding a species to the list of threatened and endangered species under the ESA?**

Before a plant or animal species can receive the protection provided by the ESA, it must first be added to the Federal lists of Threatened and Endangered Wildlife and Plants. A species is added to the list when it is determined to be endangered or threatened because of any of the following factors:

1. the present or threatened destruction, modification, or curtailment of its habitat or range;
2. overutilization for commercial, recreational, scientific, or educational purposes;
3. disease or predation;
4. the inadequacy of existing regulatory mechanisms; or
5. other natural or manmade factors affecting its continued existence.

The process of listing begins in one of two different ways: through the petition process or through the candidate assessment process. The ESA provides that any interested person may petition the Secretary of the Interior to add a species to, or to remove a species from, the list of endangered and threatened species. Through the candidate assessment process, Service biologists identify species as listing candidates. For a detailed description of the listing process, see the Listing a Species as Threatened or Endangered, Section 4 of the ESA fact sheet at <http://www.fws.gov/endangered/esa-library/pdf/listing.pdf>.

### **Why did the Service list the salmon crested cockatoo under the ESA?**

Section 4(b)(3) of the ESA allows for the public participation in the Service's listing process. Anyone may petition the Service to list, reclassify, or delist a foreign species. On May 6, 1991, the Service received a petition from the International Council for Bird Preservation to list 53 foreign birds, including the salmon-crested cockatoo. This petition began the process for reviewing the status of the species in order to determine whether the species should be added to the Federal List of Endangered and Threatened Wildlife and receive the protections provided by the ESA. For a more detailed description of the preceding findings, lawsuits, and proposed rule, see the Previous Federal Action section of the final listing determination for the salmon-crested cockatoo [76 FR 30758].

After carefully assessing the best available scientific and commercial information regarding the past, present, and potential future threats faced by the salmon-crested cockatoo in the wild, the Service found that the salmon-crested cockatoo is likely to become endangered within the foreseeable future throughout all of its range due to threats under factors A, B, D, and E, thus meeting the definition of threatened.

### **Why would the Service list a species as threatened in Indonesia, where it has no regulatory jurisdiction?**

The ESA requires the Service to list species as endangered if they are in danger of extinction, and as threatened if they are likely to become endangered in the foreseeable future, regardless of which country the species lives in. The ESA specifically directs the Service to consider species that have been identified by any foreign nation as at risk of extinction, and to take into consideration any efforts made by a foreign nation to protect species being considered for listing. There are currently about 595 foreign species listed under the ESA, compared to about 1,372 species native to the United States.

### **How can a listing under the ESA help foreign-listed species?**

Except by regulation or permit issued for specific purposes consistent with the ESA, it is unlawful for any person subject to the jurisdiction of the United States to:

- import into and export from the U.S. listed species;
- take (take includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt any of these) listed species within the United States, its territorial waters, or on the high seas;
- deliver, receive carry, transport, or ship listed species in interstate or foreign commerce in the course of commercial activity;
- sell or offer for sale in interstate or foreign commerce; or
- possess, sell, deliver, carry, transport, or ship listed species taken in violation of the ESA.

By regulating what U.S. citizens and residents can carry in relation to a listed species, the Service is ensuring that individuals under the jurisdiction of the United States do not contribute to the further decline of a listed species. In addition, through regulations or permitting authorizing specific activities, the Service can generate additional conservation benefits, such as increased awareness of a listed species or research efforts to address conservation needs of a listed species.

The ESA also authorizes the provisions of limited financial assistance for the development and management of programs necessary or useful for the conservation of listed species in foreign countries, encourages conservation programs for foreign-listed species, and allows for assistance for such programs in the form of personnel and the training of personnel.

### **Now that the salmon crested cockatoo is listed, will the U.S. impose habitat protection or other restrictions in Indonesia?**

No. Certain provisions of the ESA do not apply to foreign-listed species. The ESA's prohibitions apply only to people subject to U.S. jurisdiction. Therefore, the Service does not have the authority or the jurisdiction to designate portions of a foreign listed species' range as critical habitat. Nor does the

Service review actions carried out by foreign nationals to ensure that they do not jeopardize continued existence of endangered and threatened species as is done with federal agencies in the United States.

### **What is a 4(d), or special, rule?**

Species that are listed as endangered receive full protection as provided by section 9 of the ESA. Section 4(d) of the ESA states that the Secretary of the Interior may, by regulation, extend to threatened species those prohibitions provided for endangered species under section 9 (See Question 3). The Service's implementing regulations for threatened wildlife (50 CFR 17.31) incorporate the section 9 prohibitions for endangered wildlife, except when a special rule is promulgated.

For threatened species, section 4(d) allows discretion to specify the prohibitions and any exceptions to those prohibitions that are appropriate for the species, if those prohibitions and exceptions are necessary and advisable to provide for the conservation of the species. A special rule allows us to include provisions that are tailored to the specific conservation needs of the threatened species and which may be more or less restrictive than the general provisions in section 9 of the ESA or the Service's implementing regulations at 50 CFR 17.31.

### **What is the 4(d) rule that is included in the final rule to list the salmon-crested cockatoo?**

Under the special rule, all prohibitions and provisions of 50 CFR 17.31 and 17.32 apply to the salmon crested cockatoo except that import and export of certain salmon-crested cockatoos and interstate commerce of birds already in the U.S. are allowed without a permit under the ESA, as explained below.

*Import and export.* The 4(d) rule allows a person to import or export either: (1) a wild-collected specimen held in captivity prior to January 18, 1990 (the date the species was transferred to Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)); or (2) a captive-bred specimen, provided the import is authorized under CITES and the Wild Bird Conservation Act (WBCA) or the export is authorized under CITES. Violation of WBCA or CITES would constitute a violation of the ESA.

*Interstate commerce.* The 4(d) rule allows a person to deliver, receive, carry, transport, ship, sell, offer to sell, purchase, or offer to purchase in interstate commerce a live salmon-crested cockatoo and its parts and products without a permit issued under the ESA.

A permit issued under the provisions of the ESA is required from the Division of Management Authority to authorize otherwise prohibited acts, such as the import and export of birds into and from the United States, taken from the wild after January 18, 1990; foreign commerce; and take of listed species within the United States. Whereas permits for endangered species may be issued only to authorize activities connected to scientific research or the enhancement of propagation or survival of the species, permits for threatened species may authorize these activities, as well as activities that include zoological exhibition, educational purposes, and special purposes consistent with the ESA.

### **I have a pet salmon-crested cockatoo; will it be able to travel with me out of the U.S.?**

Yes. If your pet salmon-crested cockatoo was captive-bred, either in the United States or abroad, or was not captive-bred, but held in captivity prior to January 18, 1990, you will be able to export from and import into the United States your bird without a permit under the ESA. However, you will still

need to apply for a permit under CITES and WBCA. Under the special rule, a person will need to provide records, receipts, or other documents when applying for permits under CITES and WBCA. Therefore, since the CITES import or export permit would probably not identify when a wild-collected bird was removed from the wild, you will need to provide documentation that shows that your pet was taken from the wild and held in captivity prior to January 18, 1990.

### **How do I apply for a permit and who do I contact for questions regarding permits?**

Permit applications may be obtained from the Service's web site or by contacting the Service's Division of Management Authority. Applicants should allow at least 90 days for processing application requests that involve activities that are not otherwise exempted under the special rule. For pet birds, applicants should allow at least 45 days for processing.

U.S. Fish and Wildlife Service  
International Affairs  
Division of Management Authority  
4401 N. Fairfax Drive, room 212  
Arlington, Virginia 22203  
Phone: 703/358-2104 or 1/800-358-2104  
Fax: 703/358-2281  
Email: [managementauthority@fws.gov](mailto:managementauthority@fws.gov)  
<http://international.fws.gov>  
<http://permits.fws.gov>

### **When will this rule become effective?**

The final rule will publish in the *Federal Register* on May 26, 2011, and become effective on June 27, 2011. This final determination follows a comprehensive review of available scientific information indicating the species should be listed as threatened. All comments from the general public and from reviewers and any new information received during the public comment period were taken into account before publishing the final rule.

### **Where can I get more information?**

The *Federal Register* publication of the final rule is available online at <http://www.fws.gov/endangered/what-we-do/international-activities.html>.

The ESA provides a critical safety net for native fish, wildlife and plants and to date has prevented the extinction of hundreds of imperiled species, as well as promoting the recovery of many others. The Service is actively engaged with conservation partners and the public in the search for improved and innovative ways to conserve and recover imperiled species. To learn more about the Service's implementation of the ESA, go to <http://www.fws.gov/endangered/>.