

Chimpanzees Proposed Rule to List All – Captive and Wild -- as Endangered

Questions and Answers

What action is the U.S. Fish and Wildlife Service announcing?

The U.S. Fish and Wildlife Service (Service) is announcing a proposal to list all populations of chimpanzee as endangered under the Endangered Species Act (ESA). The Service received a petition to list all chimpanzees, including those in captivity as endangered. In our 12-month finding on this petition, the Service determined that providing separate legal status to captive specimens of listed species is not permissible under the ESA.

This finding published in the *Federal Register* on June 12, 2013, and is available online at <http://www.fws.gov/policy/library/2013/2013-14007.pdf>. Comments on this proposed rule must be received within 60 days, on or before August 12, 2013.

Why is the Service proposing that all chimpanzees be listed as endangered?

The status of the chimpanzee has not improved since wild populations were listed as endangered in 1990. Threats to the chimpanzee from habitat loss, poaching and disease have intensified and expanded. These threats are further aggravated by an increasing demand for natural resources by a growing human population. Furthermore, recovery from the loss of individuals is more difficult for chimpanzees given their slow reproductive rates. Therefore, the Service finds that chimpanzees continue to meet the definition of endangered.

Why is the Service now proposing to list captive and wild chimpanzees as endangered under the Endangered Species Act (ESA)?

The Service found that the ESA does not allow for captive-held animals to be assigned a separate legal status from their wild counterparts. Threats to the chimpanzee from habitat loss, poaching, and disease have intensified and expanded since wild populations were listed as endangered in 1990. The threats are exacerbated by an increasing human population, the expansion of settlements, and increasing pressure on natural resources to meet the needs of the growing human population. Furthermore, recovery from the loss of individuals is more difficult for chimpanzees given their slow reproductive rates. Therefore, the Service finds that chimpanzees continue to meet the definition of endangered.

Why are foreign species listed under the ESA?

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 the country where the species is found.

How does the ESA protect foreign species?

By regulating the activities of U.S. citizens and residents with regard to listed species whose native range is outside the United States, the ESA helps to ensure that people under U.S. jurisdiction do not contribute to the further decline of these species.

Except by permit 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 United States any listed species, or its parts or products;
- take (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.

What additional benefits does listing under the ESA afford a species?

In addition to the prohibitions on certain activities (see question above), the ESA also authorizes the provisions of targeted financial assistance for the development and management of programs necessary or useful to the conservation of listed species in foreign countries. The ESA encourages conservation programs that benefit foreign-listed species, and may provide assistance through training or personnel. The ESA also encourages international conservation of foreign-listed species through its enhancement permits provision.

What is the Service doing to help conserve wild populations of chimpanzees?

As chimpanzees are ever more threatened by the effects of human activities, the Great Ape Conservation Fund becomes increasingly more important as a means of promoting effective conservation. Since 2001, the Service has awarded 534 grants from the Great Ape Conservation Fund totaling \$34,112,906, matched by \$42,015,282 in leveraged funds. Of that, \$8,629,006 went towards 137 grants that supported conservation efforts to protect chimpanzees, matched by an additional \$10,375,177 in leveraged funds. Field projects were supported in 19 countries. These projects include: development of conservation policies and local leadership – in partnership with the Wildlife Conservation Society – to ensure the long-term survival of chimpanzees and gorillas; working with Wild Chimpanzee Foundation-Africa to improve the conservation of the last remaining West African Chimpanzees; long-term research and conservation of gorillas and chimpanzees in the Ebo Forest, Cameroon, in partnership with Zoological Society of San Diego; and complementing outreach activities conducted by the Wildlife Conservation Society and Rwandan park authorities to strengthen engagement in protecting Nyungwe National Park through positive change in community knowledge, attitudes and behaviors.

If all chimpanzees are listed as endangered, what protections under the ESA will captive chimps receive?

If the proposed revision to the classification of all chimpanzees to endangered is finalized, the provisions of the “special rule” or “4(d) rule” for primates allowing activities otherwise prohibited under the ESA will no longer be applicable for captive chimpanzees. Therefore, these activities may require a permit in the future.

What activities will require a permit?

For foreign endangered species, a permit under the ESA must be obtained from the Service’s Division of Management Authority to conduct any activities prohibited under the ESA. This includes:

- import into the United States,
- export from the United States,
- take within the United States, and
- interstate and foreign commerce.

Permits may be issued only for scientific purposes or to enhance the propagation or survival of the affected species. Beneficial actions that have been shown to support or enhance survival of chimpanzees include habitat restoration and research on chimpanzees in the wild that contributes to improved management and recovery.

Do I need a permit to keep my pet chimpanzee?

Permits are not required for holding legally acquired chimpanzees in captivity or for normal husbandry practices for maintaining the health of the animal.

If all chimpanzees are listed as endangered, and I want to purchase or sell a captive chimpanzee, will I need a permit?

A permit would be required if you purchase a chimpanzee from [or sell to] someone in another state. Such a permit may be issued, but only for scientific research related to the species or to enhance the propagation or survival of the affected species. A permit would not be required if you purchase the chimpanzee from or sell it to someone who resides in your home state.

If all chimpanzees are listed as endangered, will the ESA require a permit for the use of chimpanzees in biomedical testing?

Activities that could take (e.g., harm, harass) a chimpanzee will require a permit. Interstate sales of chimpanzee blood, cell lines, or tissue will also require a permit. We anticipate that necessary biomedical research could be permitted through enhancement-of-survival permits. These permits may be issued for programs that provide a conservation benefit to species in the wild. Permits are

not required for holding chimpanzees in captivity or for normal husbandry practices for maintaining the health of the animal.

Will the proposed rule listing captive chimpanzees as endangered have an effect on the National Institutes of Health's (NIH) forthcoming decision on implementing the Institute of Medicine recommendations for chimpanzees in NIH-funded research?

NIH will work closely with the Service to ensure NIH policies comply with the final conservation guidelines for captive chimpanzees while preserving NIH's ability to conduct necessary biomedical research.

If the FWS final rule lists captive chimpanzees as endangered, how will this affect NIH research using chimpanzees?

NIH will be preparing for a potential final rule that lists captive chimpanzees as endangered and will ensure its policies on research projects using chimpanzees are adapted to comply with guidelines that the Service establishes in its final rule. NIH anticipates that critical NIH-funded research using chimpanzees will be able to continue under permits that may be required as part of the final rule.

What types of activities could be considered to enhance the survival of the species?

Beneficial actions that have been shown to support or enhance the survival of chimpanzees can include a number of activities such as habitat restoration and research on chimpanzees in the wild that contributes to improved management and recovery.

Will a change in the status of captive chimpanzees under the ESA help protect captive chimpanzees from inhumane treatment?

The ESA prohibits inhumane treatment as a form of take (e.g., harm, harass) of listed species. By changing the listing status of U.S. captive chimpanzees from threatened to endangered, and thereby eliminating the special rule for chimpanzees contained in 50 CFR 17.40(c), these animals will become subject to all the prohibitions of the ESA, including the one for take. However, even under the current status, the U.S. Department of Agriculture (USDA) regulates the treatment of animals, including chimpanzees used in research, exhibitions and those under transport by dealers, zoos, circuses and other exhibitors under the Animal Welfare Act. The Act is enforced by the USDA Animal and Plant Health Inspection Service (APHIS). APHIS conducts annual inspections, institutes rules and regulations for the types of facilities and care that must be provided, and often performs unannounced inspections, which can occur more than once a year for exhibitors with a history of violations. Dealers and exhibitors must be licensed and are subject to record-keeping and animal marking requirements.

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 website or by contacting the Service's Division of Management Authority. Applicants should allow at least 90 days for processing of any application involving an endangered species. For additional information on permits, or to submit an application, please contact:

U.S. Fish and Wildlife Service
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
<http://international.fws.gov>
<http://permits.fws.gov>

Where can I find more information?

For general information on the proposal, visit
<http://www.fws.gov/home/newsroom/chimpanzeerecovery0610013.html>

To learn more about the permitting process, visit:
<http://www.fws.gov/international/permits/>

This finding published in the *Federal Register* on June 12, 2013, and is available online at
<http://www.fws.gov/policy/library/2013/2013-14007.pdf>.

Comments on this proposed rule must be received within 60 days, on or before August 12, 2013.

To learn more about the Endangered Species program's Branch of Foreign Species, visit:
<http://www.fws.gov/endangered/what-we-do/international-activities.html>.