

Final Rule to List All Chimpanzees as 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 final rule to list all populations of chimpanzee as endangered under the Endangered Species Act (ESA). The Service has determined that providing separate legal status to captive specimens of listed species is not permissible under the ESA.

The final rule will publish in the *Federal Register* on June 16, 2015, and will go into effect 90 days after publication on September 14, 2015.

Why is the Service listing all chimpanzees as endangered?

The Service received a petition in 2010 list all chimpanzees, including those in captivity 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 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. Additionally, recovery from the loss of individuals is more difficult for chimpanzees given their slow reproductive rates. Therefore, the Service finds chimpanzees meet the definition of endangered.

Why is the Service listing both captive and wild chimpanzees as endangered under the ESA?

The Service found the ESA does not allow for captive-held animals to be assigned a separate legal status from their wild counterparts, including through designation as a separate distinct population segment (DPS). It is also not possible to separate out captive-held specimens for different legal status under the ESA by other approaches. Therefore, we are eliminating the separate classification of chimpanzees held in captivity. This final action also will remove the chimpanzee from the rule issued under section 4(d) of the ESA for primates and extend the ESA's protections to all chimpanzees.

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.

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>.

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 ensure 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 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 599 grants from the Great Ape Conservation Fund totaling \$37,943,721, matched by \$48,111,817 in leveraged funds. Of that, \$9,397,263 went toward 152 grants that supported conservation efforts to protect chimpanzees, matched by an additional \$11,499,155 in leveraged funds. Field projects were supported in 19 countries.

These projects include: developing conservation policies and local leadership and improving law enforcement to ensure the long-term survival and protection of chimpanzees and gorillas in partnership with the Wildlife Conservation Society; improving west African chimpanzee conservation through protected area management in partnership with the Wild Chimpanzee Foundation-Africa; initiating west African chimpanzee conservation on the Liberia-Guinea border in partnership with Fauna and Flora International; funding long-term research and conservation of gorillas and chimpanzees in the Ebo Forest, Cameroon, in partnership with the Zoological Society of San Diego; completing a survey of chimpanzees in Senegal in partnership with Iowa State University; and providing conservation education on gorillas and chimpanzees to local communities in the eastern part of the Democratic Republic of Congo in partnership with the Jane Goodall Institute. To learn more about the Service's International Affairs program and the Great Ape Conservation Fund, visit: <http://www.fws.gov/international/wildlife-without-borders/great-ape-conservation-fund.html>.

What protections under the ESA will captive chimpanzees now receive?

The Service is listing all chimpanzees as one entity as endangered, and the ESA's protections will be extended to the captive chimpanzees in the United States. Provisions of the 4(d) rule for primates allowing activities otherwise prohibited under the ESA will no longer be applicable for captive chimpanzees because special rules can be applied only to threatened species. Therefore, these activities will require a permit.

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 that benefit the species in the wild, 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 privately owned chimpanzee?

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

Will interstate movement of chimpanzees require a permit?

The ESA does not regulate the non-commercial movement (e.g., loans, transfers, donations) of lawfully acquired ESA-listed species from one state to another. However, a prior authorization in the form of a permit now will be required if interstate movement will take place in the course of interstate commerce (selling a chimpanzees or their parts or products across state lines or to a resident of another state).

May I donate/ loan/ gift a chimpanzee?

Loans or gifts of ESA listed species across state lines, where neither party receives any financial benefit, are not considered interstate commercial activity under the ESA and therefore are not regulated under the ESA. There is nothing in the ESA that would prohibit you from loaning, possessing, displaying, donating, or receiving donated or loaned chimpanzees, or their parts or products, provided they were lawfully acquired. However, regulations that implement the ESA make it unlawful to import, export, take, transport, sell, purchase, or receive in interstate or foreign commerce any species listed as endangered or threatened. If you seek to engage in those activities in the future, please contact the Service prior to making plans. There is no formal certification process to authorize the donation or receipt of chimpanzees, however the Service does recommend you obtain and maintain any records or documentation that demonstrate the origin and chain of ownership of the wildlife.

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

A permit will be required if you purchase a chimpanzee from [or sell to] someone in another state or a resident of 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 species. A permit will not

be required if you purchase the chimpanzee from or sell it to someone who resides in your home state. However, state and local laws and regulations may apply.

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

Otherwise prohibited activities such as take (e.g., harm, harass) of a chimpanzee will require a permit. Interstate sales of chimpanzee blood, cell lines, or tissue will also require a permit. Provided the proposed biomedical research activities meet the requirements of the ESA (e.g. the facility can show how it is providing enhancement to the propagation or survival of the species by providing a conservation benefit to species in the wild), the Service anticipates the agency will be able to issue the required ESA permits. Permits are not required for holding chimpanzees in captivity or for normal husbandry practices for maintaining the health of the animal.

How do I apply for a permit for an exception to conduct otherwise prohibited activities with chimpanzees for purposes consistent with the ESA?

For import, export, interstate, and foreign commerce, and take, submit application 3-200-37 to the Division of Management Authority (address below), available from <http://www.fws.gov/forms/3-200-37.pdf>. Under section 10 of the ESA and 50 CFR 17.22 otherwise prohibited activities with ESA-listed wildlife including import/export/interstate and foreign commerce are authorized only via permit, provided they meet strict criteria and are for scientific purposes or to enhance the propagation or survival of the species.

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 but are not limited to a number of activities, such as habitat restoration, community outreach and research on chimpanzees in the wild that contributes to improved management and recovery.

Does the 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 take.

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 ESA 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 that 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.

What is Captive-Bred Wildlife (CBW) registration?

CBW registration holders are authorized by the general permit at 50 CFR 17.21(g) to conduct recurring interstate commerce and take activities that would otherwise be prohibited under the ESA with living, exotic wildlife born and held in captivity in the United States for conservation breeding purposes consistent with the ESA. The program was developed to streamline federal permit requirements for eligible activities.

A CBW registration may be issued only when applicants demonstrate activities with covered wildlife will serve the principal purpose of enhancing the propagation or survival of the species, particularly through conservation breeding, and that they have appropriate qualifications, experience, facilities, and sufficient space. This includes those holding surplus stock as part of Species Survival Plan or other bona fide conservation breeding program. Authorized activities may be conducted only with other registrants who are authorized for the same species. Registrants must report activities and current ESA-listed inventory to the Service each year.

For more information, see the Service's fact sheet on CBW registration:

<http://www.fws.gov/international/pdf/factsheet-captive-bred-wildlife-and-endangered-species-act-2014.pdf>.

How do I apply for CBW registration?

Submit application form 3-200-41, available from <http://www.fws.gov/forms/3-200-41.pdf>, with the processing fee. Instructions are on the form.

Are current CBW registrants already covered for chimpanzee?

No. Chimpanzees did not need to be included in the CBW registration program prior to this rule, as under the previous special rule at 50 CFR 17.40(c) prior authorizations were not required for interstate commerce or take of chimpanzees born within the United States.

Should CBW registrants who hold chimpanzees apply to amend their CBW registration?

Yes. CBW registrants who currently hold chimpanzees and intend to conduct interstate commerce (e.g., buy or sell chimpanzees) should apply to amend their CBW registrations by submitting application form 3-200-41 (see above) prior to the effective date of the ruling. Applicants should provide documentation that demonstrates the chimpanzees in their collection meet the criteria for CBW registration, and their staff expertise and facilities are appropriate for chimpanzee conservation breeding. Applicants do not need to submit information about other species already authorized under their CBW registration, however they may apply to add species beyond the chimpanzee on the same amendment application. Wildlife must meet the criteria for the CBW program. Applicants should not use form 3-200-52 to amend a CBW registration.

What about zoos, sanctuaries, and other facilities that hold chimpanzees? Will they need a permit to continue to hold these animals?

Permits are not required to hold legally acquired chimpanzees in captivity or for normal husbandry practices for maintaining the health of the animal. However, if a facility wishes to engage in interstate or foreign commerce, take (such as research activities that may harass or harm the animal), or import or export activities with chimpanzees, a prior authorization in the form of a permit will be required (see below). Facilities seeking to engage in interstate commerce for the purpose of conservation breeding may meet the criteria for CBW registration.

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
5275 Leesburg Pike (MS: IA)
Falls Church, Virginia 22041
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>

The final rule will be available upon publication in *Federal Register* at www.fws.gov/policy/frsystem/default.cfm by clicking on the 2015 Final Rules link under Endangered and Threatened Wildlife and Plants.

For more information on the chimpanzee, visit: <http://www.fws.gov/endangered/what-we-do/chimpanzee.html>.