

Through the implementation of this proposed policy, it would be possible to contribute to the species' survival in the wild. By providing an opportunity for facilities within the United States to apply for and obtain import permits for Asian elephants, on the grounds that the importation provides direct conservation benefits to the wild population, the ESA could be used to promote *in situ* conservation projects that are funded and supported by U.S. zoos and circuses. In addition, under this proposed policy, export of live animals or genetic material to promote captive breeding in other countries could also be tied to conservation work within the species' natural range.

Other Listed Species

The species in the above examples are all listed as endangered under the ESA, however, we believe that certain threatened species could also benefit from this proposed policy. While it is true that a significant number of permits issued for threatened species are issued for other purposes, the FWS has denied permits for enhancement for these species. This policy could be used to promote and encourage activities that would provide for *in-situ* conservation programs for threatened, as well as endangered, species.

Policy on Permits for Enhancement of Survival

1. What Is the Purpose of This Policy?

This policy expands the conditions under which we will consider the issuance of import permits under Section 10(a)(1)(A) of the Endangered Species Act (ESA), and under our existing regulations found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32 for enhancement of survival of foreign species listed under the ESA as endangered and threatened respectively. These permits would be available only in certain carefully limited situations where the range country and/or the applicants have established a substantive conservation program for the species and the import or export meets all relevant requirements and resolutions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The ultimate goal of permits issued under this policy would be to provide incentives to encourage developing countries to conserve foreign ESA-listed species and their habitats, and to promote *in situ* conservation efforts by applicants.

This policy would provide incentives recognizing and supporting those range countries that have demonstrated

significant commitment to implementing conservation programs for endangered species. Under this policy the necessary permit finding of "enhancement of survival" under the ESA would take into consideration the overall net impact, both direct and indirect, of allowing the import or export of the species or its parts or products, as offset by the implementation of a conservation program for that species in the range country.

The listing of a foreign species under the ESA provides recognition of its plight and generally prohibits the import of the species or its products into the United States. When such import would involve take of animals from the wild or commercial trade, the prohibition on import may be in conflict with ranching or captive-breeding operations that have been authorized by CITES. The opportunities to influence actual species conservation in other countries are limited, since key provisions of the ESA, such as recovery, consultation, and prohibitions on take, do not apply overseas. The application of the ESA to foreign species, and thus the United States' ability to influence their conservation, is collateral in nature, with range countries retaining ultimate authority and responsibility for species conservation. Moreover, the effectiveness of those tools that the ESA does provide for foreign species—such as import restrictions—often depends on whether their use can help encourage the range country to protect the species.

In recent years many developing countries have seen sustainable-use programs as the way to conserve wildlife species and their habitats in the face of increasing competition with other land uses. We have used the flexibility provided for threatened species in Section 4(d) of the Act to adopt special rules allowing for imports of certain sport-hunted species, such as African elephants and leopards, and the import for commercial purposes of certain crocodile parts and products. Under this expanded policy, we will broaden this concept on a limited, case-by-case basis, through the issuance of Section 10(a)(1)(A) import permits for listed species—but only if the necessary enhancement-of-survival finding can be made, in addition to all of the findings required by the CITES treaty and any relevant resolutions adopted by CITES Parties for species also covered by CITES.

This policy would provide a mechanism to consider the issuance of permits under certain circumstances for carefully selected foreign ESA-listed species in response to a conservation

plan that offsets any limited take from the wild and further promotes the conservation of the species. Such findings would serve to create a real incentive for foreign nations to establish programs that conserve both wildlife and their habitats. The policy limits the scope of such enhancement-of-survival findings to the development and implementation of management plans in the range country only in appropriate and compelling situations, and where applicants can show direct *in-situ* conservation benefit from the proposed activity. This policy would not apply to situations that were not fully consistent with CITES. It would also not apply where we have adopted or are developing a separate policy on import or export permits for a particular species (such as our Policy on Giant Panda Permits, published in the **Federal Register** on August 27, 1998; 63 FR 45839).

2. What Are the Permit Application Procedures and Issuance Criteria?

For consideration under this policy guidance, you must follow the current application process and issuance criteria as described in our regulations at 50 CFR part 17.22, for endangered species, and 50 CFR part 17.32, for threatened species. This application process is approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act; the OMB control number is 1018-0093. In applying the issuance criteria for applications to import a listed species or its parts or products, we may take into account how that action may relate to the implementation of a management program for that species in the range country, including carefully regulated sport hunting and commercial captive breeding and ranching, and whether the activity has been authorized under CITES, when so listed.

Consistent with the ESA and 50 CFR 17.22, notice of each application for a permit for endangered species will be published in the **Federal Register**. Each notice will invite the submission from interested parties, within 30 days after the date of the notice, of written data, views, or arguments with respect to the application, prior to issuance of any enhancement-of-survival permit pursuant to this policy.

3. How Will This Policy Be Consistent With CITES Requirements and Resolutions or Range Country Management Plans?

For us to consider your permit application under this policy, at least