



ZOOLOGICAL ASSOCIATION
OF AMERICA

Advocate. Educate. Conserve.

February 18, 2025

Public Comments Processing
Attn: U.S. Fish and Wildlife Service
MS: PRB/3W
5275 Leesburg Pike
Falls Church, VA 22041–3803

RE: Notice - Endangered and Threatened Species: Listing the Giraffe
Docket FWS-HQ-ES-2024-0157

The following are the comments of the Zoological Association of America (“ZAA”) on above referenced Notice from the US Fish and Wildlife Service (“FWS” or “the Service”) proposing to list various species and subspecies of giraffes under the Endangered Species Act (“ESA”) (the “Proposed Listing or “Notice”) which could have significant impacts on ZAA members and facilities and, most importantly, will negatively impact the giraffes in our care.

About ZAA

The Zoological Association of America is a non-profit zoological trade organization that consists of and represents professionally managed zoos, aquariums, conservation breeding facilities, wildlife conservation ranches, and conservation education-based animal ambassador programs. ZAA members and accredited facilities make significant contributions to global conservation through breeding programs, reintroduction programs, rescue efforts, anti-poaching and rehabilitation work around the world. In addition, ZAA organizations provide educational programming designed to help the public connect with wildlife and understand the vital importance of conservation of multiple species, including species that are listed as endangered or threatened under the Endangered Species Act (ESA).

All ZAA affiliated zoos are licensed and inspected by the US Department of Agriculture (USDA) under the federal Animal Welfare Act. While many ZAA facilities are smaller to medium size zoos, our list of accredited zoos also includes some of the largest and most well-known zoos in the country. ZAA’s accreditation process reflects a commitment to animal care and welfare, best management practices, staff, animal, and guest safety, and regulatory compliance. ZAA’s accreditation standards are rooted in the widely accepted scientifically based Five Domains of Animal Welfare framework. ZAA’s standards focus on the safety of the animals in our care, as well as our professionals and visitors. The ZAA accreditation program sets a benchmark for standards of operation and surpasses the standards of applicable state requirements and the federal Animal Welfare Act. You can learn more about ZAA and review its Accreditation Standards at www.zooassociation.org.

With a current roster of seventy-one (71) accredited facilities ZAA is one of the largest accrediting organizations in the zoological sector, counting among its members many of the finest facilities in the

United States¹. Many of ZAA's member facilities are privately-owned, often family run, businesses providing economic benefits both locally and regionally in terms of employment and tourism spending. They also contribute greatly to the education requirements of the schools and education programs in their geographic locations.

The Notice

On November 21, 2024, the Service published a proposed rule to list what it identifies as several giraffe species under the ESA. Specifically, the Service proposes listing three subspecies of northern giraffe from west, central and east Africa as endangered and two giraffe species from east Africa as threatened with tailored protections through a 4(d) rule. In addition, two other subspecies are not proposed for listing but are proposed to be treated as threatened under the ESA due to what the Service has determined is their similarity to those species that would be listed as endangered or threatened.

A fundamental flaw in the Notice is its use of a confusing and not universally accepted revised taxonomy. As the Notice acknowledges, historically giraffes have been thought of as one species, *Giraffa camelopardalis*, with nine subspecies. The Notice and the proposed listings, however, utilize the more recent proposed taxonomy of dividing them into four extant species with several subspecies which has not been universally adopted or accepted. Notably, the International Union for Conservation of Nature (IUCN) has concluded that it is premature to revise the taxonomic status of giraffes without further extensive reassessment:

See <https://www.iucnredlist.org/species/9194/136266699>.

Conflict with CITES

Perhaps most importantly, the Service's "premature" reclassification is in conflict with that of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) which follows the one species with nine subspecies approach. All giraffes are covered by the CITES Appendix-II listing which means all require export permits. The Service's use of a different taxonomy will result in confusion and conflict when CITES required export permits do not match the ESA required import permits.

Further conflict and confusion will arise from the fact that the proposed ESA listing and rule would subject all giraffes to more stringent restrictions and permitting requirements than under CITES. Giraffes are listed on CITES Appendix II and that is not likely to change. Yet the Service is proposing to impose greater restrictions on them than is applicable to them anywhere else in the world. This alone is a reason to reject the listings as proposed.

Notwithstanding this taxonomic inconsistency and whether or not this proposed listing is justified as to certain populations of wild giraffes, it would also impact the hundreds of captive-born and captive-bred giraffes in zoos here in the United States. That is the focus of these comments.

Captive Bred giraffes in the US

While the Notice extensively addresses the estimated populations of wild giraffes in various African range states it provides no information about the substantial population of captive bred giraffes in the United States and in fact barely acknowledges their existence. Based on generally available information,

¹ Some ZAA facilities are also accredited by other organizations, including American Humane, the Alliance of Marine Mammal Parks and Aquariums and the Association of Zoos and Aquariums (AZA).

ZAA estimates there are between 1000 and 1800 giraffes in various facilities in the United States.² The total population includes approximately 275 giraffes in ZAA accredited or affiliated zoos and approximately 530 animals in AZA-accredited zoos. The remaining animals are in non-accredited zoos and privately held ranches.³ This is a significant number of animals that will be impacted by the proposed ESA listings and the prohibitions and requirements that will come with them.

At least half of the giraffes in US zoos are believed to be either reticulated or Masai giraffes and thus would be subject to the proposed 4(d) rule. A much smaller percentage are Rothschild (Nubian) giraffes. However, a substantial number of giraffes in US zoos, maybe a third or more, are hybrids (often referred to as “generics” within the zoological industry) with the genetics of more than one species or subspecies.⁴ A glaring hole in the proposed listing and rule is the failure to address the status of these generic animals, which make up a sizable portion of the US population. Historically the Service has deemed other generic animals, e.g., tigers, as having no conservation value and not necessarily subject to ESA prohibitions. Regardless, any final rule and listing decision from the Service regarding giraffes must explicitly address the status of generic giraffes.

Based on publicly available information, US zoos collectively average just over fifty (50) captive giraffe births each year. Thus, this is a population that is growing notwithstanding that giraffes have not been listed under the ESA.⁵ Captive breeding programs aim to maintain healthy populations of giraffes in zoos, which can serve as a genetic reservoir. By maintaining a genetically diverse population, zoos can help ensure the long-term viability of giraffes overall, including their wild counterparts. We note also that nowhere in the Notice is there any evidence or suggestion that the presence of giraffes in US zoos is tied to any of the factors relied upon by the Service in its listing determinations.

Despite their omission from the Notice and regardless of their genetics, all of the giraffes that are cared for in US zoos and other facilities play an important conservation role. Zoos elevate public awareness and educate visitors about giraffes, highlighting the challenges they face in the wild, such as habitat loss, poaching, and climate issues, the very things the proposed listings are premised upon. This increased awareness encourages support for conservation efforts. As giraffes are generally one of the most popular exhibit animals in zoos, the impact on public awareness and understanding is particularly significant. At the same time, zoos with giraffes also directly fund conservation programs, focused on giraffe habitats in Africa. This funding is crucial for anti-poaching efforts, habitat restoration, and community education initiatives. Zoos also conduct research on giraffe behavior, genetics, and health, which contributes to the broader understanding of the species to the benefit of giraffes in the wild and in captivity.

² Given that there have been no imports of giraffes from the wild since the 1980s all of these giraffes are captive born animals.

³ This is just the US captive population. ZAA estimates that there are another 2000 or so giraffes in zoos and other captive facilities in other parts of the world, including Europe, Canada, Mexico and Australia.

⁴ In fact, it is very possible that many of the giraffes in the US that are believed to be reticulated, Rothschild’s and Masai giraffes may in fact also be generics.

⁵ We note also that while the Notice demonstrates that most current giraffe populations in the wild are significantly lower than historical estimates, the Notice also indicates that with the exception of the Kordofan Nubian giraffe, in recent years wild populations have been increasing as well, without an ESA listing. In fact, according to the Giraffe Conservation Foundation, the same source cited in the Notice: *“The conservation efforts of the GCF and numerous partners appear to be yielding positive results. Our 2020 review reveals a remarkable 20% growth, with an estimated total of 117,173 individuals in the wild today, compared to 97,562 in 2015.”* <https://giraffeconservation.org/finally-sgn/>

As noted, giraffes are among the most popular animal attractions in zoos. Furthermore, giraffe feedings and interactions are extremely popular, educational and increasingly common. The fees associated with these activities generate a significant portion of the monies that zoos contribute to the care and conservation of giraffes in the wild.

Many zoos, not just those affiliated with ZAA, will be impacted by the proposed listing and the regulatory changes that it will put in place. These changes will negatively impact captive bred giraffes here in the United States which in turn will do the same for the conservation efforts they contribute to in the wild. Among other things, it will undermine the propagation of the captive-bred population by complicating efforts to facilitate transfers for genetically responsible breeding. Zoos will be required to obtain new or additional permits from the Service in order to hold, transport, care for, breed, import or export animals in their collections. While they could seek Captive Bred Wildlife registration status for such species, that would be meaningless given the current state of the Service's CBW permit system (and in fact its entire permit program). See the report on the FWS website making numerous detailed recommendations for changes to the permitting process. <https://www.fws.gov/media/international-affairs-permitting-review-report-phase-1>

In short, the proposed listing will jeopardize the genetic viability and ultimately decrease the captive population and thus will indirectly harm the wild giraffe populations that currently benefit from US zoo conservation efforts.

The Proposed 4(d) Rule

The Notice includes proposed revisions to the Service's regulations regarding threatened species, 50 CFR 17.40 (the "Proposed 4(d) Rule") that would be applicable to reticulated and Masai giraffes and directly impact US zoos. Under those revisions, zoos holding reticulated and Masai (as well as Angolan and South African giraffes) would be prohibited from engaging in a variety of activities with their animals, absent a permit from the Service. As previously stated, ZAA believes that these kinds of restrictions on zoos would do nothing to protect wild giraffes and in fact would make it more difficult and costly for US zoos to support and advance giraffe conservation efforts.

For these reasons, ZAA recommends that the Proposed 4(d) Rule be revised to state that all federally licensed zoological facilities with captive bred reticulated and Masai giraffes may engage in the import, export, interstate commerce, research and captive breeding activities without the need for a CBW or any other permit from the Service. Moreover, this should not be limited to so-called public zoos as defined in the Service's regulations (50 CFR 10.12) as there are a significant number of zoos and other giraffe holding institutions that are not owned by a government or operated as a non-profit. That does not alter their fundamental role as a zoological institution or the positive contributions they can and do make to giraffe conservation.

There is precedent for such an approach in the Service's current regulations under 50 CFR 17.21(h) regarding captive-bred scimitar-horned oryx, addax, and dama gazelle. While controversial at the time, there is no disputing that the provisions of 17.21.(h) have led to significant population increases for all of those species. While the circumstances are not identical and ZAA does not propose and would not support allowing hunting or harvesting of giraffes in the US, the underlying principles of 17.21(h) could be a model for allowing live captive bred giraffes and genetic material to move freely in commerce between zoos and other captive breeding facilities, without requiring permits from the Service.

Requested Information

The Notice includes a list of specific questions and topics related to the issuance and application of a 4(d) rule or other protective measures that it would like commenters to address.

Information to assist with applying or issuing protective regulations under section 4(d) of the Act that may be necessary and advisable to provide for the conservation of any threatened species of giraffe. In particular, we seek information concerning:

(a) The extent to which we should include any of the section 9 prohibitions in the 4(d) rule:

The 4(d) rule should NOT include any of the section 9 prohibitions as it relates to captive bred giraffes, other than to prohibit the intentional killing or harming of giraffes, other than for veterinary reasons.

(b) Whether we should consider any additional or different prohibitions or exceptions from the prohibitions in the proposed 4(d) rule, such as;

The 4(d) rule should exclude captive bred giraffes from any of its prohibitions except as described above.

(i) A prohibition on importing threatened species of giraffes without a permit issued under title 50 of the Code of Federal Regulations (CFR) at section 17.32 (50 CFR 17.32) for a threatened species.

No. See above.

(ii) A requirement for an enhancement of propagation or survival finding or other criteria to import or export any specimen of a threatened species of giraffe.

No. Import or export of live captive bred giraffes should NOT be subject to an enhancement requirement.

(iii) A requirement for a similarity of appearance permit to import or export any specimen of a giraffe species or subspecies treated as endangered or threatened based on similarity of appearance.

Again, any captive bred giraffe, regardless of what taxonomical approach the Service adopts that is subject to a 4(d) rule should not be subject to permitting requirements.

(iv) An exception associated with our captive-bred wildlife program (see 50 CFR 17.21(g)) to conduct otherwise prohibited activities under certain circumstances to enhance the propagation or survival of giraffe species.

A blanket exception for all captive bred giraffes, both endangered and threatened, should be applied as the entire population is contributing to the enhancement of propagation and survival.

(v) An exception for interstate commerce from a public institution to another public institution, specifically commerce between museums, zoological parks, and scientific or educational institutions that meet the definition of “public” at 50 CFR 10.12.

All interstate commerce between zoological parks with any captive bred giraffes, regardless of species or subspecies, should be permitted without a permit. Moreover, that regulatory relief should NOT be limited to so-called public zoos as defined in 50 CFR 10.12.

(vi) Any specific provisions for intercrosses between threatened species or subspecies of giraffe (hybrid giraffes), which would otherwise be considered “offspring” under the definition of “fish or wildlife” (16 U.S.C. 1532(8)) and protected accordingly.

Yes. As noted, there are a significant number of “hybrid giraffes” in the US population of captive bred giraffes. The status of these animals needs to be clearly addressed as they should not be subject to the prohibitions or permitting requirements of the ESA.

Economic Impacts and Burdens of the Listing

One impact of the Listing would be to apply the enhancement and other requirements applicable to the listed giraffe species. This could have serious financial consequences due to increased costs of acquiring and keeping giraffes or substantial loss of revenue if a zoo is not able to do so. Many ZAA accredited and affiliated facilities meet the Small Business Administration’s size standard for zoos and botanical gardens of \$34 Million in annual receipts and thus are considered small businesses under federal law, including the Regulatory Flexibility Act.⁶ Given the significant number of captive bred giraffes held in ZAA facilities as well as other zoos, we believe the FWS is obligated to consider the potential significant negative impacts that this proposed listing would have on such small businesses.

These additional permit requirements come not only with the financial costs of applying for permits but with additional financial expenditures required by the Service as part of the Enhancement requirements under Section 10 of the ESA. By way of example, recent ESA permit applications notices published by the Service involve annual financial commitments by zoos of at least \$8000 and in some cases in excess of \$20,000 in order to satisfy the ESA’s enhancement requirements.⁷ These are monies that are being directed to support international conservation activities that are not directly related to the care and keeping of the captive bred animals that are the subject of the permit applications.

Regulatory Burdens

The additional burden of this proposed rule represents an overregulation that directly contradicts the principles of streamlined and efficient governance advocated by President Trump. Based on current population estimates, applications for Captive Bred Wildlife permits for giraffes could easily number in the hundreds. Particularly with the proposed reductions in the federal agency workforce, listings that will result in numerous additional permitting requirements and applications would be counterproductive.

Similarly, given that the Notice was published prior to the change in administrations, it is incumbent upon the Service review and assess the proposed listings and regulatory changes in light of the recent Executive and Secretarial Orders. In particular, before proceeding with any listing or rule the Service needs to determine the extent to which they would fall under and thus be required to comply with Secretary’s Order 3421 dated February 3, 2025:

(https://www.doi.gov/sites/default/files/document_secretarys_orders/so-3422-signed.pdf) which implements President Trump’s Executive Order entitled “Unleashing Prosperity Through Deregulation.”<https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-prosperity-through-deregulation/>

⁶ 712130, 13 CFR Part 121 Sub Sector 712 - Museums, Historical Sites and Similar Institutions

⁷ See 88 FR 45441 (7/17/2023) and 88 FR 55470 (8/15/2023).

Thank you for considering these comments. If you have any questions or would like additional information, please contact us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kelly George", is displayed on a light gray rectangular background.

Kelly George, PhD
Executive Director
Zoological Association of America