



**Safari Club International**

**E.O. 12866 Meeting**

**RIN: 1018-BF88: Endangered and Threatened Wildlife and Plants; Regulations for Prohibitions to Threatened Wildlife and Plants**

The summary for this proposed rule states that it has no “International Impacts.” Safari Club International (“SCI”) respectfully disagrees. Reinstating all prohibitions applicable to endangered-listed species for species listed as threatened has significant international impacts when it comes to imports; specifically, the import of lawfully hunted wildlife.

**Background:** The import of foreign species is governed by both the U.S. Endangered Species Act (“ESA”) and the Convention on International Trade in Endangered Species (“CITES”). The ESA prohibits the import of endangered-listed species unless the U.S. Fish and Wildlife Service (“Service”) makes a finding that the import will enhance the survival of the species. The Service calls this an “enhancement finding” and issues an “enhancement permit.”

The ESA contains no similar language for threatened-listed species. Instead, the ESA directs the Service to adopt regulations necessary and advisable to provide for the conservation of the species. For some species, the Service has adopted “special rules” with individualized prohibitions and authorizations. But for other species, the Service used a “blanket 4(d) rule” which extended all the same prohibitions and permit requirements applicable to endangered species to threatened species. The Service withdrew the “blanket 4(d) rule” in 2020. Based on the description in the unified agenda, SCI believes that the proposed rule will reinstate those blanket prohibitions and permit requirement.

CITES establishes two primary Appendices. Appendix I contains species most at risk of extinction and most threatened by international trade; Appendix II contains species which are at a lower risk. CITES controls international trade through a series of export and import permits. For Appendix I and II species, CITES provides that the exporting country must issue a permit certifying that the export is not detrimental to the survival of the species. For Appendix I species, CITES provides that the importing country must also issue a permit making a similar finding.

**Burden on Range States and Regulated Stakeholders:** The blanket prohibitions and enhancement permit requirement impose a regulatory burden on the wildlife authorities of foreign range countries. These authorities are often asked to submit extensive information to the Service. This information is meant to demonstrate “enhancement,” but that term is not defined by the ESA or regulation and presents a constantly moving target for permit applicants and range countries to meet.

Some of the world’s most successful conservation programs are in the countries that rely on regulated hunting to justify the preservation of extensive habitat, fund law enforcement and wildlife management, and incentivize local stakeholders, including rural and private landholders, to invest in wildlife instead of subsistence agriculture or ranching. Thus, it is no accident that over 80% of the world’s elephant inhabit the countries where they are hunted. The same is true of over 90% of the world’s rhino and most lion and leopard. Outside of Africa, countries in Central Asia have adopted similar successful community-based conservation models to recover previously at-risk populations of wild sheep and goats.

These conservation programs are sensitive to import restrictions in the U.S. because a large percentage of international hunters are American. Studies have shown that American hunters are willing to pay higher prices for programs with a demonstrated conservation value, and are also willing to pay higher fees when they can bring home the hide or fur, antlers or tusks, teeth and claws, and other parts of a hunted animal.<sup>1</sup>

Thus, the Service's import regulations and implementation of those regulations can significantly impact the financial value that hunting provides for range countries, local communities, and hunting operators.

- As one example, it has historically taken the Service less than three months to evaluate and prepare a non-detriment finding for the import of a leopard hunting trophy. Leopards are a CITES Appendix I species, and leopards in southern Africa are listed as threatened. If the blanket 4(d) rule applied, import of a leopard trophy would require an enhancement finding and enhancement permit. However, because the Service adopted a special rule for leopard, import requires a non-detriment finding but no enhancement finding. For this reason, leopard hunting has remained a crucial component of range countries' conservation programs and rural community livelihoods.
- By contrast, it typically takes the Service over a year—often multiple years—to evaluate and prepare an enhancement finding. Threatened-listed African lion and African elephant are examples of this delay, as the Service has pending years-long backlogs of import permit applications for these species.
- The impact of this onerous regulatory burden is not simply one of a longer process. The blanket 4(d) rule raises the regulatory bar, which potentially reduces the benefits of regulated hunting for the range countries who rely upon it. As an example, the Service extended the blanket prohibitions and permit requirement in 50 C.F.R. § 17.31 and § 17.32 to lion when the species was listed as threatened in 2016. Range countries and conservationists strongly opposed this action. They warned that imposing this import burden would ultimately result in fewer benefits to local communities, increased retaliatory killing of lion, loss of habitat, and ultimately, fewer lion on the ground. *See* 80 Fed. Reg. 79999 (Dec. 23, 2015). The Service dismissed these comments. But since 2016, range countries have experienced a reduction in lion hunting revenue and, ultimately, a loss of habitat as some of the best hunting operators have been unable to fund their anti-poaching and habitat protection initiatives. Lion imports should have been subject to a reduced regulatory burden. But instead of tailoring a special rule for this species, application of all the same prohibitions as for an endangered species—for a species not yet on the brink of extinction—has obstructed conservation programs for the lion.
- Because the imposition of the regulatory burdens in § 17.31 and § 17.32 have caused empirical negative impacts on wildlife conservation and habitat protection, SCI greatly fears the impact of

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<sup>1</sup> Whether a big buck or a big lion, hunters value trophy mementoes from successful hunts. For international hunts, the trophy memento is especially important because the hunter typically cannot bring home the meat, which is taken by local communities or the hunting operator.

the potential listing of other species under the ESA. For example, if the Service (hypothetically) were to list a species like the Bukharan markhor as threatened under the ESA, the blanket prohibition and enhancement permit requirement would apply, because markhor are listed under CITES Appendix I. This would put at risk internationally recognized conservation programs that protect habitat for sheep and goats in Central Asia.

- Likewise, SCI fears the potential detrimental impact of imposing the blanket 4(d) rule for species currently under consideration for ESA listing. Both giraffe and hippo populations are stable or increasing in the countries where they are hunted. These species are listed on Appendix II of CITES and would be subject to a reduced regulatory burden if listed as threatened—unless the Service took the same course as for lion and extended the blanket 4(d) rule to cover the import of these species. Such an action would potentially reduce the benefits of regulated hunting for conservation of these species and their habitat.
- As a final example, wood bison highlights why special rules are critical for threatened-listed species. Wood bison were reclassified from endangered to threatened in 2012. 77 Fed. Reg. 26191 (May 3, 2012). At the time of reclassification, the subspecies was included in CITES Appendix II. The Service explicitly declined to promulgate a 4(d) special rule for wood bison but noted that the enhancement finding and ESA import permit requirements would not apply for sport-hunted trophies because of the exemption for CITES Appendix II listed species. *Id.* at 26211 (citing 50 C.F.R. § 17.8). Although removal from the CITES Appendices rightly recognized the species' recovery, the ESA threatened listing has not changed. Because wood bison is no longer listed under CITES, the exemption in § 17.8 does not apply but the blanket 4(d) rule does. An ESA enhancement finding and import permit are now required to import sport-hunted wood bison trophies into the U.S. In effect, due to successful recovery efforts, greater restrictions now apply for import. This contradictory result highlights the necessity of special rules for threatened-listed species.

**Conclusion:** These examples demonstrate that regulated hunting and subsequent import into the U.S. of hunting trophies is important to range countries around the world. Increasing regulatory restrictions in the U.S., including raising the bar for import of hunting trophies by imposing a set of blanket prohibitions and a permit requirement for import of threatened species, will affect and likely damage well-managed international hunting programs. For this reason, the proposed rule at issue has “International Impacts.” The representation that there are “no” such impacts is false. SCI requests that OIRA send the proposed rule back to the Service to attempt to justify the benefits of adopting this rule, given the demonstrated negative impacts it will have on international conservation programs. If the Service cannot provide this justification, SCI requests that the rule not be finalized and published.