



# CUSTODIANS

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## OF PROFESSIONAL HUNTING & CONSERVATION SOUTH AFRICA

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CPHC-SA SAPS Accreditation Number: 1300141

Email: [admin@cphc-sa.co.za](mailto:admin@cphc-sa.co.za) | Website: <http://www.cphc-sa.co.za>

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Also emailed to [info\\_Coll@fws.gov](mailto:info_Coll@fws.gov)

**Re: Comment Opposing African Elephant 4(d) Proposed Rule,  
87 FR 68975 (November 17 2022),  
Docket # FWS-HQ-IA-2021-0099  
And OMB Control Number 1018-African Elephant**

Dear U.S. Fish and Wildlife Service,

**Custodians of Professional Hunting and Conservation South Africa (hereafter CPHC-SA)** opposes the proposed amendment to Rule 4(d) of the Endangered Species Act (ESA) on African Elephant.

CPHC-SA submits that the proposal is not necessary and that it will obstruct the conservation of elephant.

CPHC-SA is a non-profit membership organisation in South Africa, acknowledged by the Department of Forestry, Fisheries and Environmental Affairs. The Association has been established to:

1. Promote ethical and responsible hunting;
2. Demonstrate and enhance conservation and ecologically sustainable development through the responsible use of natural resources in order to ensure that South Africa's biodiversity and conservation heritage is protected for the benefit of present and future generations; and
3. To enhance and promote the contribution of professional hunting to the livelihood and socio-economic development of all South Africans.

## CPHC-SA COMMENTS:

Below, please find our organisation's comments on the following sections as stipulated in **column three of FR page number 68989**:

1. ***Impact of the proposed regulatory changes in this proposed rule on the conservation of African elephants and on the affected public.***

CPHC-SA took note of the intended purposes of the proposed amendments.

However, we are concerned about the unintended negative consequences the proposed regulatory changes will have on the conservation and management of African elephants and our people within the affected range States.

The affected range States are all developing countries with both high social (human) needs and demands, as well as high levels of biodiversity requiring protection, of which the African elephant only forms one part. One of the unintended consequences will include limited conservation budgets to do real conservation work in these countries, being allocated to solely meeting the requirements. For most of these countries, elephants have a low threat status; in South Africa, elephant is regionally listed as Least Concern.

The (G) certification that funds must be spent "primarily" on elephant conservation and (G)(7) that communities spend their financial benefits on conservation is too disincentivizing.

2. ***Impact of not including some or all of these requirements in the rule and whether these requirements are clearly understandable.***

It would be better not to adopt the proposed rule, because some parts will negatively impact elephant.

Although the USFWS might not see the proposed amendments to Rule 4(d) as a ban, it would introduce restrictions which will have the same effect on range countries as a ban due to the addition of a completely new, substantial requirement asking the range states to yearly present a "fully recorded and verified certification" dated no earlier than 1 year before" the applicant's hunt. The range countries must gather and verifiably certify to 7 types of information, the last of which (on the use of money) comprises 8 subparts. Both the procedure and the substance have changed compared to the current situation. It goes beyond merely clarifying current norms and procedures.

**We refer you to a scientific Paper by Weber et al (2015): *Unexpected and Undesired Conservation Outcomes of wildlife trade bans – An emerging problem for stakeholders?***

In the Conclusion of the scientific Paper, it illuminates a specific problem: the use of trade bans as blunt instruments for conserving species that are not threatened by trade, but other threats such as climate change (Clark et al., 2013). Efforts to address specific ecological impacts of climate change appear to be failing, and instead generating contrary outcomes (Ascher, 2001), e.g., intensified value demands for status quo arrangements and increased polarization among stakeholders and decision-makers (Ostrom, 2010). The unilateral trade ban brought on by ESA has not provided the intended outcome of a reduction in polar bear mortality through sustainable harvest opportunities but rather contributed to a decline in economic opportunities for Arctic communities and co-management partners.

CPHC-SA believes that the proposed requirements come down to restrictions being imposed, which will no doubt have negative consequences for the affected range countries.

3. ***What viable opportunities exist for even more robust conservation of African elephants and supporting evidence that such viable opportunities will provide even more robust conservation of African elephants.***

CPHC-SA submits that the added restrictions to the 4(d) Rule will not improve elephant conservation.

Before even touching on the topic of “even more robust conservation of African elephants”, it is important for USFWS to acknowledge the southern African conservation model and its contribution to conservation. In southern Africa, trophy hunting mainly occurs on private and communal land where there is a direct link between income generated through hunting and species and habitat conservation.

Viable Opportunities:

The expediting of import permitting and clearing the backlog of import permitting, would no doubt boost sport hunting, which has proven in the southern African model, to significantly contribute to the conservation of wildlife.

**In this regard, we refer you to t’SasRolfes et al (2022): *Legal hunting for conservation of highly threatened species.*** Legal hunting of threatened species—and especially the recreational practice of “trophy hunting”—is controversial with ethical objections being increasingly voiced. Less public attention has been paid to how hunting (even of threatened species) can be useful as a conservation tool, and likely outcomes if this was stopped. As case studies, t’Sas-Rolfes et al, examine the regulated legal hunting of two African rhino species in South Africa and Namibia over the last half-century. The paper highlights the of unintended consequences when restrictions and prohibitions are imposed. The African rhino case studies suggest that appropriately managed and regulated legal hunting (with trophy exports) can reinforce (rather than compromise) species and habitat conservation. This positive outcome is achieved through institutional arrangements that direct the flow of socioeconomic benefits to locally relevant levels, thereby providing both (1) a source of finance for essential rhino security and management and (2) positive incentives for rural communities and private landowners to support conservation more generally. Similar results have been achieved for various other species in other contexts in southern Africa and elsewhere in the world (Cooney et al., 2017).

4. **Specific requirements proposed:**

***4.1 Proposed specific enhancement requirements for the import of sport-hunted trophies of African elephants, including the list of factors proposed to be included in a range-country certification, and how to more generally ensure that funds derived from the import are applied primarily to African elephant conservation.***

**RISK OF THREATS:**

Whilst there is no proof that trophy hunting is a key threat to elephants, the illegal killing of elephants and habitat transformation through land use change have shown to be the major threats to elephants across their range. Land use change occurs when we devalue the economy of wildlife and the other land uses become more beneficial to communities owning the land. In most wildlife areas, land use changes to agriculture or mining, both of which have catastrophic consequences for biodiversity conservation.

CPHC-SA fails to see how the proposed rules will reduce or mitigate the threats of illegal killing and habitat transformation. In fact, it may have the opposite effect. It would be better if you reduced the restrictions governing the import of elephant trophies. The level of trophy trade and the status of our elephant do not warrant stricter measures.

**Impact of trophy hunting:**

From the information available on the CITES trade database (see table below), it is clear that there is NO over-exploitation through legal trophy hunting. For South Africa specifically, with a CITES quota of 150 elephants, we hunt less than an average of 80 elephant per annum, which an extremely low percentage of the population.

The same non-exploitation through legal trophy hunting is also applicable to other range countries. The table below indicates the number of elephant trophies exported from range States according to the CITES trade database (UNEP World Conservation Monitoring Centre, Cambridge, UK) using quantities reported by the range States between 2010 and 2020 (Source Wild; Purpose Hunting trophy; Term Trophy).

	South Africa: Annual quota		Ave annual export 2010-2020
	Tusks	Elephants	
South Africa	300	150	74
Cameroon	0	0	3
Mozambique	66	33	23
Namibia	180	90	60
Tanzania	100	50	16
Zambia	160	80	8
Zimbabwe	1000	500	98

**Threat: Illegal killing of elephants:**

**As information regarding the threat of illegal killing of elephants, we refer you to a Paper by Kuiper T et al (2023), : Drivers and Facilitators of the illegal killing of elephants across 64 African sites:**

The Paper (1) used criminology theory and literature evidence to generate hypotheses about factors that may drive, facilitate or motivate poaching, (2) identified datasets representing these factors, and (3) tested those factors with strong hypotheses and sufficient data quality for empirical associations with poaching. They advance on previous analyses of correlates of elephant poaching by using additional poaching data and leveraging new datasets for previously untested explanatory variables. Using data on 10 286 illegally killed elephants detected at 64 sites in 30 African countries (2002–2020), they found strong evidence to support the hypotheses that the illegal killing of elephants is associated with poor national governance, low

law enforcement capacity, low household wealth and health, and global elephant ivory prices. Forest elephant populations suffered higher rates of illegal killing than savannah elephants. They found only weak evidence that armed conflicts may increase the illegal killing of elephants, and no evidence for effects of site accessibility, vegetation density, elephant population density, precipitation, or site area. Results suggest that addressing wider systemic challenges of human development, corruption and consumer demand would help reduce poaching, corroborating broader work highlighting these more ultimate drivers of the global illegal wildlife trade.

#### **4.2 Populations to be stable or increasing, as well as sufficiently large to sustain sport hunting at the level authorised by the country**

CPHC-SA does not support this extremely restrictive stipulation / prohibition.

It is unclear what would be considered a sufficiently large elephant population and what methodology would be used to determine this. Identifying a stable population is statistically very difficult, simply because detecting change is a lot easier, when the change is big. With regards to elephant dynamics, annual changes is even harder to detect. How does the USFWS foresee determining the stable or increasing populations on an annual basis? In addition, aerial surveys, in general have wide confidence intervals around the estimates. This is likely to lead to unreasonable expectations. Numbers across southern Africa could also naturally fluctuate as a result of climatic conditions, i.e., fluctuate downwards because of drought, but not to a point where trophy hunting poses a risk. Has the USFWS considered these fluctuations and how to incorporate this into the criteria?

It is a known fact that hunting can enhance populations in decline (thus not stable or increasing).

How should elephant be managed during period of drought?

An increasing populations of elephant is not necessarily enhancement of the conservation of the species and the biodiversity; it might result in exactly the opposite. This is given too great an unbalanced importance in a certification type system.

#### **5. How to ensure an effective transfer of hunting revenues back into conservation of the species, including the kinds of regulations, infrastructure, or standard processes the range country of the hunt should have in place to ensure that hunting revenues add to and do not simply substitute for other existing funding for conservation.**

As mentioned in paragraph 3 above, the southern African conservation models differs from the USA. South Africa is known and acknowledged globally for the success of our conservation model, based on private ownership of land and animals. Hunting revenues are being ploughed back into the conservation of habitat and species on a much larger scale than only focussing on one specific species.

While it is important that regulating authorities recognise elephant populations as valuable resources, in the South African and southern African context what is more important is that communities and landholders responsible for and impacted by elephants consider elephants as a valuable resource. Have the US FWS considered what the unintended consequences of additional restrictions or prohibitions would be on the value of elephants to those mostly impacted by elephant and that are currently benefitting from limited trophy hunting of elephant?

Within southern Africa, and specifically South Africa, the majority of trophy hunting takes place on private

and communal land where there is a direct link between the income generated through hunting and the conservation of the species and human wellbeing (see Figures 1 and 2 on financing models for rhino conservation in 't Sas-Rolfes *et al.*, 2022). Any restrictions imposed that either leads to a prohibition on trophy hunting or makes it impossible for range States to comply is likely to significantly reduce the income generated and thus makes it harder to fund the conservation and protection of elephants and removes incentives for communities responsible for and impacted by the African elephant. This is likely to disincentivise conservation as a sustainable land-use and livelihood option, and result in land use conversion. See specifically in this regard Mbaiwa (2018) on the effects of the safari hunting tourism ban on rural livelihoods and wildlife conservation in northern Botswana. In addition, Klein *et al.*, (2015) warns that a lack of benefit to local people, particularly where it negatively impacts their well-being, is both a problem of inequity and a conservation issue when it results in increased wildlife poaching or persecution. We would therefore caution the US FWS against added regulations considering the unintended consequences and the potential impacts these may have on human livelihoods and elephant conservation in the African range States that are currently responsible for the conservation and protection of more than 70% of the global African savanna elephant population.

**6. Whether USFWS should consider including any other prohibitions, conditions, or exceptions in our proposed paragraphs (e)(2), (e)(6)(ii), (e)(10), and (e)(11) in 50 CFR 17.40(e), pertaining to:**

**6.1 Activities with live African elephants;**

**and**

**6.2 with African elephant parts and products other than ivory and sport-hunted trophies;**

**and**

**6.3 Making enhancement determinations that will continue to be required by the 4(d) rule for the importation of African elephant sport-hunted trophies:**

South Africa has all the necessary legislation in place to ensure that our elephant populations are managed in a responsible manner. Our conservation model allows for private ownership; thus, landowners providing safe and secure areas for elephants.

The important socio-economic contributions made by the wildlife industry (landowners, hunters, and others in the value chain) include amongst others job and food security which is detrimental to the southern African countries affected by these rules. CPHC-SA cannot support such restrictions have a direct negative affect on our country and its people.

**6.4 Limiting trade in African elephants to Parties with a CITES Category One designation under the CITES National Legislation Project (11)**

CPHC-SA do not support the inclusion of this stipulation.

Although our resident country, South Africa, is a Category-1 country and will therefore not be directly impacted by the inclusion at this point in time, it will however impact our neighbouring SADC countries i.e. Botswana and Zambia.

Zambia, in recent years, have really made a concerted effort to improve the conservation status of their elephant population and to develop a wildlife economy. This will have a major negative impact on their country and conservation efforts. The question remains how prohibiting the import of trophies from countries without Category One designation, will benefit elephant conservation in those countries. It will

not, but it will certainly harm their elephant conservation program.

**In this regard, please refer to a Paper by Joseph E Mbaiwa (2017) *Effects of the safari hunting tourism ban on rural livelihoods and wildlife conservation in Northern Botswana***

The Paper provides important information regarding the loss of income, jobs and provision of social services. The ban on safari hunting in Botswana resulted in the loss of income generated by local communities and jobs previously created from safari hunting. The loss of safari hunting income and jobs affected rural livelihoods.

**7. Public comment and supporting evidence on the analysis and on the alternatives explored in this rule’s draft environmental assessment and economic analysis. In addition to the preferred alternative (Alternative 2) discussed in this proposed rule, the Service has evaluated two other alternatives.**

**7.1 Alternative 1 is the “no action” alternative and would maintain the 4(d) rule as it is currently written.**

Based on CPHC-SA’s comments above, we propose that Alternative 1 be adopted and therefore, that no revision is necessary of Rule 4(d) and that the proposed rule will therefore be withdrawn.

In addition thereto, we propose that the two elephant per year trophy import limit be suspended immediately, to be revised or repeal or deleted. This should assist to clear up the elephant import backlog. CPHC-SA supports the petition to that effect filed by Conservation Force, Dallas Safari Club & Houston Safari Club

**8. Annual certification for range countries:**

CPHC-SA opposes this proposal whereby range countries will have to annually certify to seven categories of information. The time periods to source and compile information, the preparing of the certificate and supporting reports and working through the chain of command to the Minister of a specific Department, will make this requirement completely impractical and non-achievable.

We are concerned about the administration and costs being shifted to range countries, taking away their focus on important issues such as management and poaching control. We believe that the obligation remains with the USFWS to prove enhancement should that be their requirement, and not the range country.

The proposal will serve as a disincentive to use legal, well-managed, sport hunting as a conservation tool.

**References:**

Weber et al (2015): *Unexpected and Undesired Conservation Outcomes of wildlife trade bans – An emerging problem for stakeholders?*

t’SasRolfes et al (2022): *Legal hunting for conservation of highly threatened species*

Kuiper T et al (2023), : *Drivers and Facilitators of the illegal killing of elephants across 64 African sites*



Joseph E Mbaiwa (2017) *Effects of the safari hunting tourism ban on rural livelihoods and wildlife conservation in Northern Botswana*

*CITES trade database (UNEP World Conservation Monitoring Centre, Cambridge, UK)*

**IN CLOSING:**

CPHC-SA urge USFWS and the Department of Interior to base their decisions and directions based on what is best for the range countries, it's wildlife and it's people and not necessarily for USFWS.

We appreciate the opportunity to comment. Should you need any further specific information regarding our submission, please feel free to contact Mrs Adri Kitshoff-Botha on [ceo@cphc-sa.co.za](mailto:ceo@cphc-sa.co.za). CPHC-SA will also appreciate the opportunity to discuss the matter in person, should there be an opportunity.

Kind regards



Chairperson: S Kelly



CEO: A Kitshoff-Botha