Endangered and Threatened Wildlife and Plants; Threatened Status for the Leopard in Southern Africa

SUMMARY: The Director, U.S. Fish and Wildlife Service (hereinafter, the Director), hereby issues a rulemaking which reclassifies certain African populations of the leopard as Threatened rather than Endangered. All leopard populations occurring to the south of a line running along the borders of the countries are reclassified as Threatened:

- Gabon/Rio Muni;
- Gabon/Cameroon;
- Congo/Cameroon;
- Congo/Central African Republic;
- Zaire/Central African Republic;
- Zaire/Sudan;
- Uganda/Sudan;
- Kenya/Sudan;
- Kenya/Ethiopia;
- Kenya/Somalia.

A special rule is promulgated which allows for the importation of a sport-hunted leopard trophy legally taken anywhere in Africa south of this line and conditions of the Convention.

DATES: The rule becomes effective on March 1, 1982.

ADDRESSES: Documents, comments, and other materials related to this rulemaking are available by appointment for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 500, 100 North Glebe Road, Arlington, Virginia, 22201.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, 1000 North Glebe Road, Arlington, Virginia, 22201.

The leopard (Panthera pardus) was listed in March, 1972, as an Endangered species throughout its entire range. In the Federal Register of March 24, 1980 (45 FR 19007), the service proposed to change the classification of the leopard in sub-Saharan Africa from Endangered to Threatened, and to permit the importation of sport-hunted leopard trophies from this region under the terms and conditions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The specific area for which this action was proposed is in Africa, south of a line running along the borders of the following countries: Senegal/Mauritania; Mali/Mauritania; Mali/Algeria; Niger/Algeria; Niger/Libya; Chad/Libya; Sudan/Libya; Sudan/Egypt. In the proposal, the public and all interested parties were given until November 24, 1980, in which to present data, comments, opinions and arguments in favor of, or in opposition to, the proposal. In addition, the Service requested the Department of State to contact all affected foreign countries (i.e., those sub-Saharan African countries in which the leopard is resident), and solicit any pertinent information or comments they might have.

The Service has now completed its examination of all materials submitted in connection with the proposal, and finds that the area in which the leopard should be reclassified is southern Africa rather than all of sub-Saharan Africa. It is therefore issuing herewith a final rulemaking to reclassify the leopard in an area of Africa to the south of a line running along the borders of the following countries: Gabon/Rio Muni; Gabon/Cameroon; Congo/Cameroon; Congo/Central African Republic; Zaire/Central African Republic; Zaire/Sudan; Uganda/Sudan; Kenya/Sudan; Kenya/Ethiopia; Kenya/Somalia. Imports of sport-hunted trophies will be permitted from this area under the terms and conditions of CITES.

Historical Record

The leopard is the most widely distributed species of cat. It occurs throughout most of Africa, and from Asia Minor to China, Korea, Japan, and Java; it also is found in India, Sri Lanka and Southeast Asia. In March of 1972, the Service listed the leopard as an Endangered species pursuant to the Endangered Species Conservation Act of 1969.

The heavy flow of leopards into the United States for the fur trade immediately ceased after the listing and there have been no imports of leopards, except under permit, since 1972.

In February and March of 1973, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter, the CITES or the Convention) was negotiated in Washington, D.C. (the Convention, however, did not become effective until July 1, 1975). The leopard was placed on Appendix I of the Convention when the Convention was negotiated. Appendix I is defined as including all species threatened with extinction which are or may be affected by trade. The CITES requires that trade in specimens of these species must be subject to particularly strict regulation in order not to endanger their survival and must only be authorized in exceptional circumstances. With an Appendix I species, a valid export permit must be issued by the Management Authority of the country of export and an import permit must be issued by the Management Authority of the country of import before trade in the species is allowed. An export permit will not be granted by the country of export unless its Scientific Authority advises that such export will not be detrimental to the survival of the species, and unless its Management Authority is satisfied that...
an import permit has been granted, and that the specimen was lawfully acquired. In the case of countries not party to the CITES, these findings must be made by comparable government authorities. The United States Management Authority will not issue an import permit unless it is determined that the country of origin for the trophy has a management program for the animal, and that hunting should not be detrimental to the survival of the species.

The U.S. Scientific Authority for CITES has, on several occasions, advised in favor of requests to import sport-hunted trophies of another Appendix I species, the southern white rhinoceros (Ceratotherium simum simum). It is prepared to give similar advice on requests to import leopard trophies, but only if the countries of origin meet the above criteria. To date, the U.S. Scientific Authority for CITES has reviewed the adequacy of the leopard conservation program in a specific case for Botswana and has determined in that case that the country currently meets these criteria; the review of other countries’ programs is anticipated. The Scientific Authority intends to evaluate individual permit requests in terms of Conference Report 2.11 of the Convention concerning Appendix I trophy imports. That report indicates that import permit decisions for sport-hunted trophies should be made on the basis of the following considerations: (1) whether the importation will serve a purpose not detrimental to the survival of the species; and (2) whether the killing of animals whose trophies are intended for import will enhance the survival of the species. These considerations translate into determinations concerning management programs and populations in specific countries.

The placing of the leopard on the United States List of Endangered and Threatened Wildlife and Plants, and on Appendix I of the Convention, has generated considerable interest in that species’ actual status in the wild. Since the listing, four major studies on the status of the leopard have been completed which form the basis for the present action. These studies are the following: “The Leopard Panthera pardus in Africa” by Norman Myers (JU CN Monograph No. 5, 1976); “The Status and Conservation of the Leopard in sub-Saharan Africa” by Randall L. Eaton (Safari Club International, January, 1977); “Status of the Leopard in Africa South of the Sahara” by James G. Tear and Wendell G. Swank (unpublished contracted study, 1976, financed by U.S. Fish and Wildlife Service); and finally, “The Leopard Panthera pardus and Cheetah Acinonyx jubatus in Kenya” by P. H. Hamilton (unpublished contracted study, 1981, financed by U.S. Fish and Wildlife Service).

In December 1973, the Endangered Species Act of 1973 was passed into law. This Act differed from the previous 1969 Act in that it provided for a Threatened category as well as for an Endangered one. A Threatened species is one that is likely to become Endangered within the foreseeable future throughout all or a significant portion of its range. The Secretary has broad discretion in developing a management strategy that will effectively conserve Threatened species by issuing specific regulations. Based on data contained in the status documents, the Service feels now that the leopard in southern Africa more properly fits the definition of a Threatened species than it does an Endangered species (an Endangered species is defined as one in danger of extinction throughout all or a significant portion of its range).

The Service can promulgate any specific regulations for a Threatened species that are deemed necessary and advisable to provide for the conservation of that species. In the case of the leopard in southern Africa, the Service finds it necessary and advisable to permit the importation of legally killed sport-hunting trophies under the terms and conditions of the Convention in certain cases. In the following sections, the Service outlines its reasons for reclassifying the leopard in southern Africa, and presents its argument as to why it may be necessary and advisable in some cases to permit the controlled importation of legally taken trophies.

Reasons for Reducing the Area Affected by the Reclassification

In its March 24, 1980, proposed rulemaking, the Service delineated all of sub-Saharan Africa as the area in which it proposed to reclassify the leopard to Threatened status. Since that proposal, the Service has re-examined the status reports available to it, and has carefully analyzed the data, comments and opinions that were submitted in response to the proposal. The Service now concludes from the available data that a more restricted area for the reclassification is warranted. Therefore this final rule reclassifies the leopard as Threatened in southern Africa only, rather than in all of sub-Saharan Africa as originally proposed. The reasons for this change from the original proposal are as follows: (1) Through the American embassies in the countries, three West African countries (Senegal, Liberia and Ghana), and Sudan and Ethiopia in the northeastern part of sub-Saharan Africa, indicated that leopards were considered as Endangered in those countries; and (2) reexamination of all available data show that less substantial evidence is available from West Africa and the northern tier of countries in sub-Saharan Africa than from the rest of the area of the proposed reclassification. Because of these factors, the Service now proceeds to reclassification of the leopard only in southern Africa.

Summary of Data on the Status of the Leopard in Southern Africa

Eaton (loc. cit.), using a habitat/density analysis, believes that a conservative estimate of the numbers of leopards in the area under consideration would be in the neighborhood of half a million animals (426,282). He feels that an absolute minimum estimate would place the numbers at 186,034. A breakdown of minimum and conservative estimates for each of the southern African countries is as follows:

<table>
<thead>
<tr>
<th>Country</th>
<th>Absolute minimum</th>
<th>Conservative estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kenya</td>
<td>6,379</td>
<td>25,640</td>
</tr>
<tr>
<td>Uganda</td>
<td>1,547</td>
<td>9,413</td>
</tr>
<tr>
<td>Tampazrie</td>
<td>14,740</td>
<td>93,100</td>
</tr>
<tr>
<td>Angola</td>
<td>17,369</td>
<td>42,340</td>
</tr>
<tr>
<td>Zambia</td>
<td>18,500</td>
<td>46,250</td>
</tr>
<tr>
<td>Mozambique</td>
<td>16,193</td>
<td>92,378</td>
</tr>
<tr>
<td>Malawi</td>
<td>1,980</td>
<td>8,635</td>
</tr>
<tr>
<td>Botswana</td>
<td>3,184</td>
<td>6,646</td>
</tr>
<tr>
<td>Zimbabwwe</td>
<td>2,268</td>
<td>4,576</td>
</tr>
<tr>
<td>South West Africa/Namibia</td>
<td>3,477</td>
<td>6,554</td>
</tr>
<tr>
<td>South Africa</td>
<td>3,600</td>
<td>11,150</td>
</tr>
<tr>
<td>Congo</td>
<td>13,200</td>
<td>27,500</td>
</tr>
<tr>
<td>Gabon</td>
<td>12,400</td>
<td>26,600</td>
</tr>
<tr>
<td>Zaire</td>
<td>70,000</td>
<td>105,000</td>
</tr>
</tbody>
</table>

Total: 186,034          426,282

Although the conservative estimates may overstate actual numbers, it still is reasonable to believe that the absolute minimum figures have validity and that there probably are well over 180,000 leopards in the area under consideration, e.g., the minimum figure of Eaton for Kenya corresponds well with P. H. Hamilton’s minimum figure for that country.

Eaton (loc. cit.) gives his expert opinion of the status of the leopard in each of the countries of southern Africa as follows:

Kenya — satisfactory.
Uganda — rare, but probably not endangered overall.
Tanzania — satisfactory, probably abundant.
Angola — satisfactory.

Myers, in his 1976 report, summarizes his findings on the leopard in Africa as follows:

"The leopard's present status is much more favourable than that of a number of other major mammal species, notably the cheetah, but also the lion, wild dog, three species of hyena and two of rhinoceros, giraffe, hippopotamus and crocodile. By 1980, the leopard, compared with several of these species, may enjoy yet more favourable status, a trend which could well continue throughout the years thereafter."

In a 1980 letter of Myers', he indicated that the leopard was "relatively numerous" in Zaire, Congo and Gabon and that the species "retains satisfactory numbers" in seven other countries in south-central and eastern Africa. The Service maintains that these statements by Myers do not imply Endangered status (as defined by the Act) for the leopard in southern Africa. The data obtained by Teer and Swank (loc. cit.) also demonstrate that a Threatened rather than an Endangered classification is warranted for the leopard in southern Africa. These authorities state in their Summary of Findings that "in a realistic appraisal of the status of the leopard, and considering its inherent characteristics, the species logically belongs in a Threatened classification... that is, it is not currently threatened with extinction in sub-Sahara Africa, but there are indications that it might become so in some areas."

The most recent survey (1981) of the status of the leopard was conducted in Kenya by Patrick H. Hamilton of the African Wildlife Leadership Foundation. Mr. Hamilton's report dealing with the leopard has now been received by the Service, and supports recategorization and controlled sport hunting of the species. Hamilton obtained the information in his survey from questionnaires, personal interviews, correspondence, published reports and his own observations. Most of his information was obtained by talking to 53 professional hunters, game wardens, wildlife biologists, tour operators, and farmers, as well as a number of herdsmen and other local people. The most valuable single source of information he found were the 21 professional hunters that he interviewed.

"In summary, Hamilton reports that leopards have declined generally in Kenya since the 1960's. He believes that the causes of the decline were excessive poaching for hides, increase of human settlement as large farms were divided into smaller holdings (reduction of habitat), widespread use of poison for deliberate predator control, and to a lesser extent, uncontrolled sport hunting; in some areas natural habitat changes, such as increasing soil salinity in Amboselli which resulted in killing of the Acacia woodlands, have proved detrimental to leopard populations. Hamilton says that at the present time, he would be very surprised if Kenya's leopard population numbers less than 6,000 or more than 18,000 animals. He believes that 10,000 to 12,000 is probably the closest approximation, and that Eaton's conservative and realistic estimates for Kenya overstate the population of leopards.

Hamilton believes, on subjective evidence available, that a recovery of the leopard is underway in Kenya and that, following the relaxation of poaching pressure, Kenyan leopard populations are increasing again. Although he doubts that leopards will ever be as abundant as in former times, recent reports from Masailand and parts of Samburu District are particularly encouraging.

For the rest of Africa, Hamilton feels that the same factors that have affected leopard populations in Kenya affect those in other countries. Although they may do so to different degrees in different countries, the lessons of Kenya are widely applicable. Although he considers Eaton's estimates and judgements as invalid, he still feels that as a species the leopard cannot be considered "endangered," in the true meaning of the word, in sub-Saharan Africa at the present time. But, he points out, if the leopard is not "endangered," it should certainly be regarded as "threatened" for the Kenyan experience has shown what can happen to an abundant leopard population within the short period of ten years (1965-1975). The virtual elimination of leopards from North Africa and parts of southern Africa should serve, according to Hamilton, as a warning to any who believe that this species can always survive no matter what the impact of man. For this reason, Hamilton is strongly opposed to resumption of any sort of commercial trade in leopard skins. He feels that there is simply no system in effect to provide the desired controls and safeguards for resuming commercial trade.

Hamilton's recommendation, therefore, is that the United States Government reclassify the leopard in Africa to Threatened status, but continue to insist on retaining the species in Appendix I of the CITES to protect against commercial exploitation. He further recommends that the U.S. Government lift its present ban on the importation of leopards legitimately shot in Africa by American sport hunters. He states that the ban on importing the legitimately taken leopard trophies of sport hunters has not served any useful purpose. The number involved has been relatively small and the ban runs counter to the concept of giving the leopard monetary value that will help to justify its continued existence in Africa.

Because the Hamilton report was received considerably after the March 24, 1980, proposal, the Service decided to make Mr. Hamilton's views fully known to the public before proceeding with a final regulation. Therefore, on September 8, 1981, the Service published in the Federal Register (46 FR 44960) a summary of the Hamilton report, and requested the public to submit any views, comments, opinions, or disagreements they might have by October 8, 1981; it was requested that correspondence during this reopened comment period be restricted to the Hamilton report and not simply be a rehash of issues involved in the original proposal on which the public already has had ample time to comment. The closing date of this new comment period has now passed, and the Service has analyzed the comments presented during the period. These comments are fully addressed in a later section of this rulemaking.

The Service feels that the best scientific and commercial data available indicate that the leopard is Threatened, not Endangered, in southern Africa. The major authorities on the leopard agree that the species is not Endangered in southern Africa. In addition, CITES has now been fully implemented and presents an adequate method of controlling utilization of the species for commercial purposes. It is the Service's opinion that CITES represents an effective regulatory mechanism in controlling the decline of the species due to commercial trade. Therefore, the Service is proceeding with a recategorization of the species in southern Africa to reflect these facts. Further biological information is...
outlined in the Summary of Comments section of this rulemaking.

Responses From African Countries

When the proposal to reclassify the leopard was published, the Service requested that the State Department, through the relevant American embassies, notify all sub-Saharan African countries of the action and solicit their data, comments, and opinions. Because many of the concerned countries did not reply to embassy inquiries, the Service again contacted the State Department on August 28, 1980, and urged their assistance. As a result of these two requests, the Service received comments from the following countries directly or through the American embassies in those countries: Benin, Botswana, Ethiopia, Ghana, Lesotho, Liberia, Malawi, Mozambique, Senegal, Sudan, Tanzania, Upper Volta, and Zimbabwe. The following chart summarizes the reaction of each of these countries to the proposal:

<table>
<thead>
<tr>
<th>Country</th>
<th>Favor proposal</th>
<th>Oppose proposal</th>
<th>Proposal of no concern</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benin</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Botswana</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Ethiopia</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Ghana</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Lesotho</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Liberia</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Malawi</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mozambique</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>Senegal</td>
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<td>X</td>
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<tr>
<td>Sudan</td>
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<td>X</td>
</tr>
<tr>
<td>Tanzania</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Upper Volta</td>
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<td></td>
<td>X</td>
</tr>
<tr>
<td>Zimbabwe</td>
<td>X</td>
<td></td>
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</tbody>
</table>

The following is a summary of the comments received directly from, or received from American embassies in, responding African countries:

**Benin**—This country reported that the leopard was rare, and is protected vigorously from hunting pressures. No sport hunting or commercial take is permitted. The country expressed no opinion as to whether or not it approved of the proposed U.S. action.

**Botswana**—Botswana welcomed the proposal. It stated that the leopard is not Endangered here and that livestock raids by the species are not uncommon over the whole country. For these reasons, Botswana fully supported the proposal.

**Ethiopia**—Ethiopia reported that the species is now classified as Endangered, but that with the new conservation measures the country is proposing, the danger hopefully will be lessened. No comments were made, either for or against the proposed U.S. action.

**Ghana**—This country strongly opposed the U.S. proposed action. It stated that the leopard is endangered in Ghana through overexploitation and habitat destruction, and that the U.S. proposed action would not be in the interest of Ghana or of Africa.

**Lesotho**—"There are no leopards in Lesotho. The Government of Lesotho appears to have no interest in the subject."

**Liberia**—Liberia opposed the proposed regulation, citing problems with smuggling and habitat destruction as principal threats to the leopard in that country.

**Malawi**—Malawi reported that the U.S. proposal is in line with the thinking of that country and therefore meets with its approval.

**Mozambique**—This country reported that the leopard was not Endangered and that the U.S. proposed action met with its full approval.

**Senegal**—"**the decalssification is inopportune and the leopard should remain an Endangered species."

**Sudan**—The leopard is still considered an Endangered species in Sudan and accordingly hunting or export of leopard trophies is strictly prohibited. No opposition or approval, however, was expressed to the proposed U.S. action.

**Tanzania**—Tanzania reported that the leopard is neither Endangered nor Threatened. It supported the U.S. proposed action.

**Upper Volta**—No permits are issued for hunting leopards. The proposed U.S. action "**would not affect Upper Volta.""

**Zimbabwe**—Zimbabwe welcomed the move as being in the best interest of the leopard and felt that it would promote proper conservation.

As can be seen from these reactions to the proposal, opposition came only from west African countries. In addition, several of the northern countries (Ethiopia and Sudan) consider the leopard as Endangered within their jurisdictions. The reaction from these countries is the primary reason the Service is proceeding with a rulemaking which restricts the reclassification to southern Africa rather than to sub-Saharan Africa as originally proposed.

The Service would like to emphasize that even in southern Africa, where the leopard is reclassified as Threatened, the U.S. cannot by law permit import of trophies from any country which prohibits hunting of leopards. Issuance of import permits by the U.S. Management Authority of the CITES would be considered only when the trophy has been taken in a country where sport-hunting of leopards is legal, and then only if the trophy can meet all of the requirements and conditions imposed on the import of an Appendix I species.

Summary of Findings on Threatened Status

Despite the fact that the leopard is not an Endangered species in southern Africa, the Service feels that it should be listed as a Threatened species in that region. Section 4(a) of the Act states:

- (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
- (2) Overutilization for commercial, sporting, scientific, or educational purposes;
- (3) Disease or predation;
- (4) The inadequacy of existing regulatory mechanisms; or
- (5) Other natural or manmade factors affecting its continued existence.

In the case of the leopard in southern Africa, factors (1), (2), (4), and (5) are operational to some extent.

1. **The present or threatened destruction, modification, or curtailment of its habitat or range.** Myers (loc. cit.) feels that the leopard may be more adaptable to habitat changes than many other forms of animal life. Nevertheless, large areas of southern Africa will be given over to crop farming within the next decade, particularly savannah, as drought-resistant maize becomes available. This could present a long-term threat to the leopard as well as to many other forms of African wildlife. Hamilton (loc. cit.) points out that Africa has the highest population growth of any region on earth and this is bound to adversely affect available habitat for the leopard.

2. **Overutilization for commercial, sporting, scientific, or educational purposes.** Since 1972 when the United States prohibited the importation of live leopards and leopard products, a good part of the world market for illegal hides has vanished and this significant threat to the survival of the leopard was checked. Nevertheless, illegal poaching continues to be a problem in certain areas with hides going into the international fur trade. Although Hamilton characterizes the leopard as "threatened" and not "Endangered" in Kenya, he feels the species could not withstand resumption of commercial fur trade. Many of the authorities interviewed by Teer and Swank (loc. cit.) expressed concern over the inability of some African nations to effectively control this illegal take. The leopard, with a reclassification to Threatened status, will continue to be protected by
the general prohibition against importation into the United States found at 50 CFR 17.31, and the trade restrictions found in the Convention.

4. The inadequacy of existing regulatory mechanisms. Although the present posture of the leopard on Appendix I of the Convention assures the species adequate regulatory protection, it is essential that the leopard remain protected by the Convention. In fact, along with the evidence of its status in southern Africa, its regulation under CITES makes it possible to permit the importation of a sport-hunting trophy under the Act. If the leopard was transferred to CITES Appendix II, it might be necessary for the United States to reconsider the issue of importation of sport-hunting trophies under the Act.

5. Other natural or manmade factors affecting its continued existence. Myers (loc. cit.) feels that the greatest threat to the leopard derives from increasing use of poison. The leopard's propensity-for scavenging makes it more susceptible than many carnivores for taking treated lumps of meat. Myers states that preliminary signs suggest that this threat is certainly capable of extirpating leopards from sizeable areas in a short space of time. He feels that it is a factor of greater consequence to the future of the leopard than all other forms of combating the species combined. Hamilton (loc. cit.) also points out that natural environmental changes, such as increasing soil salinity in Amboseli Park, have destroyed forests and other habitats of value to leopards.

Importation of Leopard Trophies

The Service is convinced that in some cases permitting the importation of a legally taken leopard trophy from southern Africa will benefit the species. The argument that the leopard might benefit from strictly controlled legal trophy hunts is expressed by Mr. Daniel Sindiyo, Assistant Director, Division of Wildlife, Ministry of Tourism and Wildlife, Kenya, in an interview contained in the Teer and Swank report. Mr. Sindiyo says: "It seems very clear to me that no one is going to conserve and manage a resource that is not going to provide some financial return to them. This applies to Masai or any other landowners. The leopard does cause damage to livestock, and it cannot be expected that the Masai will live happily with an animal that has only negative benefits. Fortunately, we are beginning to make more progress in getting revenues from wildlife back to the people. For example, a leopard shot on a license would return to the landowner Sh 5,000 ($665 U.S.), so this is it. The landowner now knows that fees due will go directly to him, either as a private landowner, or a member of a group ranch, and they appreciate this highly."

"As you well know, prior to 1973 very few of the landowners had much interest in wildlife if they saw someone killing wildlife they just went about their business. That has now gradually changed. They now think of wildlife as common property because money from wildlife is invested in projects that will benefit the whole community."

Mr. E. T. Matenge, Director, Department of Wildlife, National Parks and Tourism, Botswana (in an interview contained in the Teer and Swank report) states: "Now, there are some places where they (leopards) come face to face with the cattle industry and they do damage. Now the plan for destruction of leopard in those areas is very great. So you need to reconcile this situation by insuring that these animals can continue to be hunted where they are available but protected where you feel they must continue to retain good populations of these animals. The hunting of leopards in these areas is, in fact, beneficial economically, because as you may be aware, the license fee for a sport hunter to hunt leopard is P300. I don't know what this is in terms of U.S. dollars, but it's roughly $380, or something like that. From that end, you can see that it is an economically important animal as well, but to say that you must just keep it conserved without utilizing it would really be destructive in the long-term to its populations."

The same argument is repeatedly presented by persons interviewed by Teer and Swank for their report. Myers (loc. cit.) sums it up as follows: "Above all, organized exploitation of the leopard could enhance the image of wildlife in general and predators in particular, as perceived by citizens in emergent Africa."

Because of the above considerations, the Service believes that there will be benefits of allowing the importation of leopard trophies in general and predators in particular, as perceived by citizens in emergent Africa.

Response: The proposal was based on major reports by recognized authorities in the field; since the proposal, support for it has been received from Patrick H. Hamilton of the African Wildlife Leadership Foundation, who has completed a survey of leopards in Kenya. It must be recognized that the leopard is a secretive and wary animal. There will never be surveys of leopard populations that provide precise numbers of animals simply because such surveys are impossible to make. The best that can ever be anticipated with such elusive animals is population estimates and trends based on sightings or increased predation, expert opinions, habitat considerations, and general impressions obtained by knowledgeable persons in the field. The reports upon which this action is based provide the best scientific and commercial data available, and support the view that the leopard is not an animal in danger of extinction in southern Africa.
The Service believes that sport-hunting will benefit the species as a whole. As noted earlier in this document, the leopard is widely regarded as vermin in many parts of southern Africa. Experts agree that the economic value that could develop for the species through sporthunting will encourage some of the countries to develop management and conservation programs and will discourage indiscriminate killings by local landowners. It must be remembered, however, that even if the present action will not remove the United States the ability to regulate, or even prohibit, the import of leopard trophies from importation, it merely results in giving responsibility to the U.S. authorities for CITES to manage sport trophy imports.

The proposed reclassification is not consistent with the Service's guidelines for reclassification of species. The only guidelines utilized by the Service in classifying a species as Endangered or Threatened are contained in the Act's definition of these terms. An Endangered species under the Act is one that is in danger of extinction throughout all or a significant portion of its range; a Threatened species is one that is likely to become an Endangered species within the foreseeable future throughout all or a significant portion of its range. The Service believes that no responsible authority on the leopard would contend that in southern Africa as a whole it meets the conditions of the above definition for an Endangered species. Such authorities, however, do feel that the leopard fulfills the Act's definition of a Threatened species in this region.

The proposed action would not be consistent with social or environmental ethics. With regard to this point, the Service suggests that there may have been misinterpretation of exactly what the proposal does and does not do. The United States does not, through this proposal, make legal in any way the importation of a leopard trophy from a country which prohibits a sport hunt of leopards. In fact, the Lacey Act expressly forbids such importations. The proposal would, however, allow importation of a trophy from a country in which such a trophy could be legally taken. The hunter could obtain the proper permits under CITES.

Although some countries oppose sport-hunting of leopards, the U.S. would be promoting such hunting, even in those countries that oppose it.
commissioned by the Service to conduct a survey of the status of the leopard in Kenya and to submit his views as to the status of the species in sub-Saharan Africa as a whole. Mr. Hamilton's report was received by the Service in August of 1981, nearly a year after the official comment period on the proposal to reclassify the species was published. Therefore, in order to make the public aware of the latest information on the status of the leopard, and to allow for maximum public participation in the rulemaking process, the Service decided to publish a summary of the Hamilton report in the Federal Register, and to reopen the comment period between September 8 and October 8, 1981, for a public discussion of the Hamilton report. This comment period has now passed, and all comments received have been analyzed. A summary of those comments that pertain only to the Hamilton report, and the Service's responses to them, is given below.

Comment: Hamilton is wrong in concluding that the leopard will benefit from easing of restrictions by the United States on the import of legally taken sport hunting trophies.

Response: This view reflects a difference of opinion. The Service accepts Hamilton's position. As stated above, the leopard is widely regarded as a vermin in Africa, and most experts agree that the economic value provided by sport hunting would encourage management and conservation programs.

Comment: Why did the Hamilton survey focus almost entirely on Kenya, when Botswana would have been a better subject?

Response: The Service funded a survey of leopards in Kenya because of a number of factors such as: (a) Available expertise; (b) considerable work had already been completed by the time the Service's funding assistance was requested; (c) the country seemed to exhibit, on a small scale, what is happening to wildlife in Africa continent-wide, etc. By supporting this survey in Kenya, however, the Service in no way attempting to force a resumption of hunting in Kenya or a change in the status quo in that country.

Comment: The evidence presented by Hamilton does not support his conclusion that legitimate sport hunting in sub-Saharan Africa is appropriate at this time. Hamilton states, for example, that leopard population figures have been grossly overestimated in the past. While he argues that sport hunting could produce protection for the species, he admits deficiencies in the regulatory mechanisms.

Response: The Service again emphasizes that the United States is not relinquishing its authority to control leopard trophy imports by this regulation. The leopard will remain on Appendix I of CITES, and U.S. import permits under CITES can be restricted to trophies taken only in countries which have effective management programs. Hopefully, a policy such as this will encourage African countries to develop management programs that will become increasingly effective for leopard conservation.

Comment: Hamilton's survey in Kenya indicates that leopards "are no longer abundant and in many, often extensive, areas they seem to be rare." Hamilton also shows that the leopard's decline has been faster than expected and that the past massive decline of Kenya's leopard population has been far greater than sustainable yield. In the rest of Africa the situation should be worse than in Kenya since Kenya has an effective national park and reserve system (lacking in most other countries), and has had a total ban on hunting for some years.

Response: The Service feels the present regulation will have a positive effect in relation to the above points. No country can be expected to take any steps to conserve a species of wildlife which has been destructive to livestock and human life if there is no economic or other incentive to protect and preserve that animal. Only if the governments and local people receive some benefit from the species will serious measures be undertaken to conserve it. The present regulation could encourage the establishment of parks and preserves by making the leopard a valuable resource. It could discourage poaching and smuggling if in legally taken animals would have value; governments and local agencies and individuals would have more funds and incentive to check and control harmful illegal practices.

Comment: Hamilton's report thoroughly discredited the earlier work by Eaton.

Response: The Service understands this position, but, as stated earlier in this rulemaking, it does place some credence in Eaton's minimum estimates. However, the key issue is not whether Hamilton discredits or accepts Eaton's data, but whether Hamilton himself does not find the leopard Endangered in Kenya or indeed in sub-Saharan Africa.

Comment: The strict conditions that Hamilton recommends for the reinstatement of hunting (females should not be taken, hunting should be initially allowed in only two areas, and hunting pressure should be focused on leopards preying on livestock) are not included in the Service's proposal.

Response: The specific recommendations for controls contained in the Hamilton report were addressed to the Government of Kenya as factors which Hamilton deemed advisable for that Government to consider if and when it is in a position to remove the hunting ban in its country.

Comment: The monetary value of the leopard as a photographic subject is far greater than any value that the species could achieve as a hunting trophy.

Response: The Service recognizes the immense value of the leopard as a photographic subject and feels that the present regulation may benefit the leopard to the extent that it becomes better protected from illegal take, and more abundant, and hence available for persons interested in the species as a viable part of Africa's fauna.

In summary, the Service has carefully examined the data contained in the Hamilton report and finds that they support a reclassification of the leopard in southern Africa from Endangered to Threatened status. In addition, the Hamilton report supports controlled sport hunting as a conservation measure. None of the comments received during the comment period on the Hamilton report provide any new data that change the Service's interpretation of the Hamilton report, or offer any substantive reason for not proceeding with a final rulemaking.

Effect of Rule

The only effect of this rule will be that, beginning with the effective date, legally taken sport-hunting trophies of the leopard (Panthera pardus) taken in accordance with the laws of appropriate countries in southern Africa will be permitted to be imported into the United States without a permit issued pursuant to the Endangered Species Act of 1973, provided, the importer has obtained an import permit for the trophy from the U.S. Management Authority of the Convention under the terms and conditions of CITES. Requests for this permit must be filed on an application for Federal Fish and Wildlife Permit Form 3-200 (OMB Approval No. 1018-0022). In addition, permits for Threatened species may be issued for scientific purposes to enhance the survival or propagation of the species for educational or zoological purposes, or for other purposes consistent with the purposes of the Act. The rule will not affect any other prohibitions currently established under the Act for the protection of leopards in southern Africa.
Africa, such as the prohibition on sales or commercial activities in interstate or foreign commerce. Nor will it change in any way the prohibitions currently in effect for leopard populations outside of the delineated southern African countries.

**National Environmental Policy Act**

A final Environmental Assessment has been prepared and is on file in the Service's Office of Endangered Species. This assessment is the basis for a decision that this rule is not a major Federal Action that significantly affects the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969, implemented at 40 CFR 1500-1508. Because this rule is not such a major Federal action, the rule is exempt from Executive Order 12114 concerning consideration of the impacts of domestic activities on the environment of foreign countries.


Note.—The Department of the Interior has determined that this is not a major rule and does not require preparation of a regulatory analysis under Executive Order 12291.

Further, the Department of the Interior, has determined that the rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. This determination is based upon the fact that very few leopard trophies will be imported into the United States, and that those imported will have been as a result of safaris designed to take trophies of a number of other species as well. The number is expected to be considerably less than the high of two hundred leopard trophy imports recorded in 1969. These determinations are discussed in more detail in a Determination of Effects of Rules which has been prepared by the U.S. Fish and Wildlife Service.

**Sources Cited**


**PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS**

**Notice of Rule**

Part 17, Subparts B and D, Title 50 of the Code of Federal Regulations is hereby amended as set forth below:

§ 17.11 [Amended]
1. Amend the table in § 17.11 as follows:

<table>
<thead>
<tr>
<th>Common name</th>
<th>Scientific name</th>
<th>Historic range</th>
<th>Vertebrate population where Endangered or Threatened</th>
<th>Status</th>
<th>When listed</th>
<th>Critical habitat</th>
<th>Special Rules</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leopard</td>
<td>Panthera pardus</td>
<td>Africa, Asia Minor, India, Southeast Asia, China, Malaysia, Indonesia.</td>
<td>Wherever found except where it is listed as Threatened as set forth below. In Africa, in the wild, south of a line running along the borders of the following countries: Gabon/Rio Muni; Gabon/Cameroon; Congo/Cameroon; Congo/Central African Republic; Zaire/Central African Republic; Zaire/Sudan; Uganda/Sudan; Kenya/Sudan; Kenya/Ethiopia; Kenya/Somalia.</td>
<td>E</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

2. Section 17.40 is amended by adding the following paragraph (f):

§ 17.40 Special rules—Mammals.

(f) Leopard.

(1) Except as noted in paragraph (f)(2) of this section, all prohibitions of 50 CFR 17.31 and exemptions of 50 CFR 17.32 shall apply to the leopard populations occurring in southern Africa to the south of a line running along the borders of the following countries: Gabon/Rio Muni; Gabon/Cameroon; Congo/Cameroon; Congo/Central African Republic; Zaire/Central African Republic; Zaire/Sudan; Uganda/Sudan; Kenya/Sudan; Kenya/Ethiopia; Kenya/Somalia.

(2) A sport-hunted leopard trophy legally taken after the effective date of this rulemaking, from the area south of the line delineated above, may be imported into the United States without a Threatened Species permit pursuant to 50 CFR 17.32, provided that the applicable provisions of 50 CFR Part 23 have been met.

Dated: December 8, 1981.

G. Ray Arnett,
Assistant Secretary, for Fish and Wildlife and Parks.

[FR Doc. 82-2052 Filed 1-27-82; 6:45 am]

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