

## **Southern White Rhino Interim Final Rule Questions and Answers**

### **1. What action is the U.S. Fish and Wildlife Service taking today?**

The U.S. Fish and Wildlife Service (Service) is announcing an interim final rule to add the southern white rhinoceros (*Ceratotherium simum simum*) to the Federal List of Threatened and Endangered Wildlife. The southern white rhino will be listed as a threatened species under the similarity of appearance provisions of the Endangered Species Act (ESA).

### **2. Why is the Service taking this action?**

Poaching and the illegal trade in rhinoceros horn pose serious threats to all rhinoceros species worldwide. The Service has determined listing the southern white rhino as threatened under the authority of section 4(e) of the ESA, due to the similarity in appearance with the endangered Javan (*Rhinoceros sondaicus*), Sumatran (*Dicerorhinus sumatrensis*), Indian (*Rhinoceros unicornis*), black (*Diceros bicornis*) and northern white rhino (*Ceratotherium simum cottoni*) will substantially facilitate law enforcement actions to protect and conserve all rhino species.

Differentiating between the horns and horn products made from the southern white rhino and the endangered Javan, Sumatran, Indian, black, and northern white rhino is extremely difficult. Demand for rhino horns has increased the poaching of all species of rhino worldwide. In recent years, demand has increased dramatically, fueled by the unfounded belief that it can cure ailments ranging from hangovers to cancer. Rhino horn is also used in libation cups and decorative carvings. The fact that this single subspecies is not listed provides a significant loophole for those trafficking in all rhino horns and other rhino products.

On July 1, 2013, President Obama issued an Executive Order aimed at combatting wildlife trafficking. Citing both security and health threats, the President illustrated how this issue falls into the national interest of the United States. Illegal wildlife trade generates billions of dollars in illicit revenues, fueling the instability of governments and in many cases directly threatening the national security of the United States. Trafficking of live animals also contributes to the spread of emerging infectious diseases.

### **Interim Rule**

### **3. What is an interim rule?**

The Service is utilizing a rulemaking process commonly referred to as “interim final rulemaking” that allows the issuance of a final rule without prior notice and comment, but with a post-promulgation opportunity for comment. By inviting comment, the Service is indicating that it may revise the rule in the future based on the comments it receives. To issue a rule without first seeking public comment, the agency must meet one of three exemptions under section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 551 et seq.): the Service must find that prior public procedure is impractical, unnecessary, and/or contrary to the public interest. The Service has determined that the delay associated with seeking prior public comment on this rulemaking would be contrary to the public interest, for reasons explained below. Based upon this rationale for applying the APA’s exemption to the notice and comment requirements in the

interest of the public, the agency also has good cause to waive the standard 30-day effective date for this rule consistent with section 553(d)(3) of the APA.

#### **4. What does a Similarity of Appearance listing mean?**

While the Service has determined that the southern white rhino does not currently meet the definition of a threatened or endangered species under the Endangered Species Act (Act) (16 U.S.C. 1531 et seq.), the interim final rule protects it under the Act as threatened by similarity of appearance to listed rhino species. Currently, the southern white rhino is the only subspecies of rhinoceros not listed under the Act. Differentiating between the horns and other products made from the southern white rhino and the endangered rhino species is extremely difficult. This similarity of appearance has resulted in the documented trade of products made from listed rhinoceros species, often under the guise of being the unprotected southern white rhinoceros. This difficulty in distinguishing between the listed rhino species and the southern white rhino constitutes a threat to all endangered rhinoceros species. The determination that the southern white rhino should be treated as threatened due to similarity of appearance will substantially facilitate law enforcement actions to protect and conserve all endangered rhino species.

#### **5. How does this type of rulemaking apply to the southern white rhino?**

The delay associated with public comment on a proposed rule to list the southern white rhino under the Act's similarity of appearance provisions would negatively impact the conservation of endangered rhino species and, therefore, is contrary to the public interest. With this action, the southern white rhino will receive immediate protections through the regulation of commerce under the Act. This immediate protection is necessary to deter trade in currently listed rhino species that could otherwise occur during the intervening time period required to finalize a rulemaking under the APA's public notice and comment procedures. This illegal trade is contributing to a black market that continues to attract poachers, resulting in an upsurge in the unsustainable killing of endangered rhino species. In light of the critically low abundance levels and restrictive ranges of all of the rhino species currently listed under the Act, immediate measures to curtail some of the trade in rhino specimens is necessary to alleviate the pressures to the species associated with poaching for the global black market.

### **Southern White Rhino Status**

#### **6. What is the current status of the southern white rhino?**

The current combined wild and captive southern white rhino population is estimated to be 20,160 individuals. Historically, the southern white rhino had a large range that included Angola, Botswana, Malawi, Mozambique, Namibia, South Africa, Sudan, Swaziland, and Zimbabwe. The current natural range includes Botswana, Namibia, South Africa, Swaziland, and Zimbabwe; countries that are not natural range but maintain populations (for example through ex situ translocation or exotic introductions) of the southern white rhino include Uganda, Kenya, and Zambia.

#### **7. What is the status of southern white rhinos under CITES?**

The southern white rhino is listed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in Appendix I with the exception of Swaziland and

South Africa, where sport-hunted trophies and live animals that meet specific criteria are listed in Appendix II. All other specimens from Swaziland and South Africa are treated as Appendix I.

CITES is an international treaty to prevent species from becoming endangered or extinct because of international trade. Under this treaty, countries work together to regulate the international trade of animal and plant species and ensure that this trade is not detrimental to the survival of wild populations. Any trade in protected plant and animal species should be sustainable, based on sound biological understanding and principles.

### **Sport-hunted trophies**

#### **8. Will this listing change the process for importing a southern white rhino sport-hunted trophy?**

No. The listing due to similarity of appearance will not change current permitting requirements for sport-hunted trophies of southern white rhinos. Provided you obtain the required CITES permits for southern white rhinos taken in South Africa, Swaziland, or Namibia, you should be able to import your trophy. Before hunting in a country other than those listed, you should contact the Service's Division of Management Authority at [managementauthority@fws.gov](mailto:managementauthority@fws.gov) to discuss your plans.

#### **9. What permits are required for southern white rhino sport-hunted trophies?**

A CITES export permit is required from the country where the trophy was taken. Contact the CITES authorities in that country for additional information and instruction. [Click here](#) for a list of national CITES authorities. If the trophy was taken in South Africa or Swaziland, no other permit is required.

If the trophy was taken in any other country, a U.S. import permit is required. You would need to submit permit application ([form 3-200-19](#)) and provide the information requested on that form. To date, Namibia is the only other country for which the Service has issued import permits for sport-hunted trophies of southern white rhino. For all other countries, the Service would need to obtain information about the hunt, the management program under which the trophy would be taken, and information on the status of the rhinos in that country before determining whether an import permit can be issued under CITES and the ESA.

### **Antiques and Collectibles**

#### **10. Does this listing change what I can do with an antique item made in whole or part of a southern white rhino?**

No. Antiques are exempt from the provisions of the ESA.

The burden of proof to claim the benefit of an exemption to the prohibitions, such as the antiques exemption, lies with the person claiming the exemption. In addition, the import and export of southern white rhino parts and products is restricted under CITES, is subject to permit requirements, and must be declared to the U.S. Fish and Wildlife Service upon import/export.

**11. Does this listing change the process for importing, exporting, or selling other items made from southern white rhinos?**

Yes, the import, export, interstate and foreign commerce is prohibited unless authorized by a Service-issued permit. Please contact the Division of Management Authority at [managementauthority@fws.gov](mailto:managementauthority@fws.gov) so that we can provide advice specific to your item.

**Public comment process**

**12. What are the next steps?**

While we are taking these immediate steps to protect these species, we invite public comment as set forth in the DATES and ADDRESSES section of the interim rule. After consideration of the public input, we will publish a final rule either affirming the interim rule as published or revising or withdrawing it.

**13. Where can I find more information?**

Permit applications may be obtained from the Service's website or by contacting the Service's Division of Management Authority. For additional information on permits, or to submit an application, please contact:

U.S. Fish and Wildlife Service

Division of Management Authority

4401 N. Fairfax Drive, Room 212

Arlington, Virginia 22203

Phone: 703-358-2104 or 1-800-358-2104

Fax: 703-358-2281

Email: [managementauthority@fws.gov](mailto:managementauthority@fws.gov)

<http://www.fws.gov/international/permits/>

This notice was made available for public inspection on September 10, 2013, and is available online at [http://www.ofr.gov/OFRUpload/OFRData/2013-22132\\_PI.pdf](http://www.ofr.gov/OFRUpload/OFRData/2013-22132_PI.pdf). Written comments and information concerning the proposed rule can be submitted by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow instruction for submitting comments to Docket No. FWS-HQ-ES-2013-0055.
- U.S. mail or hand-delivery: Public Comments Processing, Attn: [FWS-HQ-ES-2013-0055]; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203.

Comments must be received within 30 days, on or before October 11, 2013. The Service will post all comments on <http://www.regulations.gov>. This generally means the agency will post any personal information provided through the process. The Service is not able to accept email or faxes.

Read what others are saying about this listing at: <http://www.fws.gov/rhino-conservation-2013wttes.html>

For more information on this interim final rule and the Service's efforts to conserve rhinos, visit:  
<http://www.fws.gov/rhino-conservation-2013.html>.

To learn more about the Endangered Species program's Branch of Foreign Species, visit:  
<http://www.fws.gov/endangered/what-we-do/international-activities.html>.