purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

Applicant: Elizabeth Ott plans to construct a single family residence, within 5 years, on approximately 0.5 acres of a 4.137-acre property on Highway 290, Bastrop County, Texas. This action will eliminate 0.5 acres or less of Houston toad habitat and result in indirect impacts within the lot. The Applicant proposes to compensate for this incidental take of the Houston toad by providing $2,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Bryan Arroyo,

Acting Regional Director, Southwest Region, Albuquerque, New Mexico.

[FR Doc. 03–20988 Filed 8–15–03; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Issuance of Permits for Marine Mammals.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permit(s) subject to certain conditions set forth therein.

Marine Mammals

Permit number	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
055331	Dennis B. Callender	68 FR 33179; June 3, 2003	July 17, 2003.
072383	Scott S. Snyder	68 FR 33734; June 5, 2003	July 17, 2003.

Dated: July 25, 2003.

Lisa J. Lierheimer,

Policy Specialist, Branch of Permits, Division of Management Authority.

[FR Doc. 03–20942 Filed 8–15–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft Policy for Enhancement-of-Survival Permits for Foreign Species Listed Under the Endangered Species Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the Fish and Wildlife Service, (the FWS) announce a Draft Policy for ''Enhancement of Survival'' permits for foreign species listed under the Endangered Species Act of 1973, as amended (ESA). This policy would provide guidance under which we will consider the issuance of Section 10(a)(1)(A) enhancement-of-survival permits as incentives to encourage conservation of foreign-listed species in the wild. Permits to allow the import of foreign-listed species or their parts or products would only be considered in certain limited situations if such action enhances the survival of the species in the wild. Enhancement must be demonstrated through support of a substantive conservation program for that species in the range country with a positive benefit for the species and/or its habitat. The in-situ conservation actions envisioned by implementing this policy otherwise would not occur or would be significantly reduced, absent the issuance of permits to encourage range countries to develop and implement such programs or to encourage applicants within the United States to become active participants in range country conservation actions.

The ESA and existing regulations provide full authority for issuance of these permits. However, in the past we have generally chosen to limit these types of permits for ESA-listed foreign species. We now believe there could be a greater conservation benefit by providing for the import and export of carefully selected ESA-listed foreign species, or their parts and products, that are obtained from captive-breeding programs or well-managed conservation programs that limit removal from the wild and further promote and advance the conservation of the species within range countries.

This draft policy presents guidance to help the public understand the requirements for issuance of permits under the ESA. It is not intended to be prescriptive or to necessarily prohibit or allow any public or private activity. We seek public comment on this proposed draft policy.

DATES: Comments on the draft policy must be received by October 17, 2003.

ADDRESSES: Send any comments or materials concerning the Draft Policy for Enhancement-of-Survival Permits for Foreign Species to the Chief, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 (Telephone, 703–358–2093; fax, 703–358–2280; e-mail, *ManagementAuthority@fws.gov*).

Comments received will be made available to the public and become part of the file for this policy. You may examine comments and materials received during normal business hours at the above address in Arlington, Virginia. You must make an appointment to examine these materials.

FOR FURTHER INFORMATION CONTACT: Kenneth Stansell, Assistant Director, International Affairs. (Telephone, 202–208–6393).

SUPPLEMENTARY INFORMATION:

The Application of the Endangered Species Act to Foreign Species Conservation

Approximately 40 percent of all species listed under the ESA are foreign species whose natural range occurs outside the United States. Of these, approximately 80 percent are listed as endangered and 20 percent are listed as

threatened. Under the ESA's listing process, foreign and domestic species are treated equally, and the biological criteria used for determining the appropriate classification of threatened or endangered species are the same. However, most of the key conservation provisions of the ESA do not apply to foreign species. Habitat conservation planning mechanisms, recovery planning and implementation, most Section 7 consultations, and the Section 6 grant-in-aid program do not apply to ESA-listed foreign species. Even the fundamental conservation tool of prohibition of take (defined by the ESA as killing, capturing, collecting, harassing, and related activities) is limited to actions taken within the United States, the territorial seas of the United States, or on the high seas (*i.e.,* when committed by persons under the jurisdiction of the United States). In some situations, listing under the ESA may provide few, if any, additional benefits and may complicate the implementation of conservation initiatives under other international authorities, such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

The ESA specifically addresses foreign species under Sections 8 and 8A by providing the authority to allow for international convention implementation for CITES and to enter into other such treaties, and to otherwise cooperate with other countries for the purpose of conserving listed species. We have been able to use these authorities to encourage conservation of ESA-listed foreign species in certain countries where bilateral conservation programs have been developed, such as the Pakistan markhor example cited below. However, opportunities for such activities are limited in comparison to the larger number of ESA-listed foreign species and the many countries of the world in which they occur. Where these programs occur, range countries retain ultimate responsibility and authority for implementing conservation measures for their resident species.

Several other domestic measures, such as the African Elephant Conservation Act and the Wild Bird Conservation Act, work to encourage the conservation of foreign species also listed under the ESA. Under certain conditions, these statutes allow for the sustainable use and/or management of foreign species and recognize the limited, ancillary nature of the United States's ability to influence foreign species conservation.

Ultimately, the incentives that the United States can employ to encourage conservation activities for foreign species in other countries are limited, and we need to consider the use of every possible means available. In practical terms, one of the few available means for encouraging the conservation of foreign endangered species is through our decisions about whether to issue import permits. Permits can be issued for purposes of scientific research or the enhancement of survival for endangered species. For threatened species, permits can be issued for those same purposes as well as for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the ESA. The FWS goal of using the permits program to promote the long-term conservation of animals, plants, and their habitats is outlined in a recent publication, ''Leaving a Lasting Legacy'' (*http://permits.fws.gov*).

However, this permitting authority is not being fully used even though it is internationally recognized as one of the most effective conservation tools employed by CITES and other multilateral international agreements. Implementing this policy could encourage proactive conservation through the use of ''enhancement of survival'' findings to allow for imports that result from programs that significantly advance the conservation of a species within a given range country.

This concept is consistent with a Federal District Court's rationale in Defenders of *Wildlife, Inc.* v. *Watt* (1981), which upheld our decision to lift a prior ban on the importation of kangaroo parts and products in recognition of and in response to kangaroo conservation activities undertaken by Australia. The court found that the ''application of the Act to the kangaroo is necessarily collateral in nature, and the well-being of the species can only be ensured by the government of Australia.'' Further, the court ruled that ''while the Defendants have some resources at their disposal (*e.g.,* import restrictions), to effectuate the Act, the effectiveness of these resources depends on Defendants' ability to encourage Australia to protect the kangaroo.'' The potential for removal of the import ban then imposed under the ESA was an important aspect of these negotiations. It was used by the United States as an incentive for the imposition of a more rigorous and meaningful conservation program by Australia.

In Defenders, the court recognized that we had no control over the species or its natural habitat. Consequently, our ability to protect the kangaroo was limited to encouraging, or creating incentives for Australia to implement programs designed to ensure the species' well-being. Since the United States was an important market for kangaroo leather parts and products, our decision to lift the import ban was essential to encourage Australia to implement stricter conservation measures for kangaroos. Lifting the ban ultimately enhanced the status of the kangaroo in Australia and achieved the conservation objectives of the ESA for the species.

CITES and the Endangered Species Act as Conservation Tools

Many foreign species of concern to the United States are protected not only under the ESA but, also under CITES, a related but distinct conservation tool that regulates the international trade in certain wild plants and animals. Under CITES, species may be included, after approval by a two-thirds majority of CITES parties, in one of two Appendices, depending on the degree to which international trade impacts the survival of the species. Appendix I includes species ''threatened with extinction'' and imposes a general ban on trade for primarily commercial purposes. Appendix II allows controlled commercial trade in species that may become threatened with extinction without such controls. The import of an Appendix-I species is allowed if the purpose of the import is not primarily commercial and is not considered to be detrimental to the survival of the species. The import of an Appendix-II species is allowed if the species or its parts and products have been legally acquired and the export is not considered to be detrimental to the survival of the species. Thus, in all cases CITES requires that a ''no detriment'' finding be made for each species and country involved, and that appropriate CITES permits be issued.

The text of the CITES treaty provides for certain exemptions from the restrictions on commercial trade in Appendix-I species. Through more than 20 years of interpretation and implementation, the CITES parties have agreed that the treaty provides significant flexibility in determining what kinds of activities are considered to be detrimental to the survival of Appendix-I species. Article VII, paragraph 4, of the treaty provides that Appendix-I species meeting the CITES definitions of ''bred in captivity'' or ''artificially propagated'' may be treated as if they are listed in Appendix II, removing the ban on commercial trade. Likewise, under certain conditions and with established quotas, CITES allows

the export of sport-hunted trophies of Appendix-I species. While trade in such species may not be detrimental, and noncommercial trade can be allowed, the CITES treaty includes no requirement that such actions directly address the issue of enhancing the conservation of the species in the wild.

CITES also allows for the transfer from Appendix I to Appendix II of certain populations of species that can be demonstrated to benefit from ''ranching,'' for purposes of trade. A ranching operation must primarily benefit conservation of local populations of the species in the wild. Ranching involves the development of a management program for a specific population of an Appendix-I species, such as Nile crocodiles in Zimbabwe. Under this program, crocodile eggs are taken from the wild and hatched in captivity, and then some juvenile crocodiles are returned to the wild, while others are retained for commercial activity. This provides an incentive to protect and recover the wild population.

For native species listed under the ESA, the Congress has directed that they be automatically protected from take, in addition to prohibitions against commerce and trade. A foreign ESA-listed species is protected from importation into the United States and from foreign commerce by American citizens, but not from take by an American within a foreign country. This reflects the limited extent to which domestic U.S. law applies overseas. We have a very different degree of control, and thus a very different ability to influence conservation, in other sovereign countries that have their own national laws and policies.

The ESA also provides us with permitting authority in Section 10(a)(1)(A) to allow for otherwise prohibited activities for listed species. This authority allows for the issuance of permits ''for scientific purposes, or to enhance the propagation or survival'' of the listed species, as well as other purposes for threatened species. The net result is that the ESA imposes different and more stringent permitting standards for the importation of an endangered species than is required under Appendix I of CITES. Under CITES, the issue is whether the importation of an Appendix-I foreign species is not detrimental to the survival of the species. Under the ESA, the issue is whether the importation of a foreign species enhances the survival of the species.

Special Rule Authority for Foreign Species Listed as Threatened

The ESA allows for the promulgation of special rules under Section 4(d) for threatened species. Special rules can be used to authorize permits for activities consistent with the specific conservation needs of a species and may be less restrictive than for endangered species. Using this Section 4(d) authority, we have issued regulations to allow for the importation of sport-hunted trophies of certain foreign species listed as threatened. Likewise, we have lifted restrictions on the import of products from several foreign species listed as threatened when we determined that lifting the import ban would be an incentive for the development of a more rigorous conservation program in the range state.

Examples of the use of the special rule authority include African elephants and saltwater crocodiles. The African elephant is listed as threatened with a special rule that allows for the import of sport-hunted trophies where it can be clearly demonstrated that the range country has established and is implementing a conservation program using regulated sport hunting as a tool to enhance the survival of the species. Several species of salt water crocodiles from Africa and Australia are listed as threatened with a special rule that allows the import of crocodile parts and products from certain managed populations to encourage and help create an incentive for the development of more rigorous conservation programs in affected range countries.

The need exists to address legitimate conservation issues affecting foreign ESA-listed species on a case-by-case basis, without sole reliance on a reclassification from endangered to threatened status so that Section 4(d) may be applied. The benefits of an innovative conservation program should not be limited solely to species that have already met the standard for reclassification to threatened status. Based on our experience in international conservation efforts, we believe that in some limited situations, the only way for the United States to participate in programs to improve the status of an endangered species is to allow import of specimens, parts, or products from well-regulated taking programs, if the programs are designed to promote conservation of the species in the wild. By making such determinations on a case-by-case basis, we expect that issuance of such permits will facilitate further conservation efforts that could lead to reclassification of a species from endangered to threatened, or off the ESA list completely.

Enhancement Findings for Foreign Species Listed as Endangered

As indicated, we have been able to make the necessary ''no detriment'' CITES finding and the ESA's ''enhancement of survival'' finding for some activities that involve the direct removal of individuals from the wild for several foreign species listed in Appendix I that are also listed as threatened under the Act. While Section 10(a)(1)(A) of the ESA actually allows for the issuance of import permits to enhance the survival of foreign species listed as endangered, if the necessary enhancement finding can be made, we have historically interpreted the enhancement standard for foreign endangered species fairly narrowly. This practice has resulted in the routine denial of applications for the import of foreign species listed as endangered if the import would cause the killing of any individual in the wild, even in those situations involving a CITES-approved export program or other substantive conservation program. This has included the denial of applications for the import of parts and products from ranched populations, import of specimens meeting CITES requirements for specimens bred in captivity or artificially propagated for commercial purposes, sport-hunted trophies from countries with CITES-approved quotas for the species involved, and international movement of live zoological specimens.

The traditional, narrow approach to enhancement findings for actions that would result in the killing or removal from the wild of a foreign endangered species has precluded the use of the import permit as a proactive tool and incentive for foreign species conservation. We now believe that in some situations we could achieve a greater conservation benefit by providing for the importation of carefully selected foreign endangered species, or threatened species lacking (or in lieu of) a Section 4(d) rule, in exchange for a substantive and comprehensive conservation plan that offsets a limited take and further promotes the conservation of the species within the range country. An enhancement finding could be used as a more flexible proactive conservation tool to encourage the development of such substantive conservation plans for foreign species listed as endangered. Such an approach would help us expand the effectiveness of the ESA in meeting the growing habitat protection needs of foreign wildlife. Further, by

limiting the scope of such enhancement-of-survival findings to the development and implementation of foreign species management plans by the relevant range country, we can create a real incentive for foreign nations to establish programs that conserve both wildlife and habitat through the use of this approach in the most appropriate and compelling situations.

Examples of Potential Application

Several current examples serve to illustrate the potential application of this new proposed enhancement-of-survival policy. These include the Morelet's crocodile in Mexico; the Asian bonytongue fish in Indonesia, Thailand, and Malaysia; the wood bison in Canada; the markhor in Pakistan; and the Asian elephant in India, southeast Asia, and China. These examples represent species with similar listing status under the ESA but significantly different conservation issues and opportunities under the proposed policy.

Morelet's Crocodile

The Morelet's crocodile (*Crocodylus moreletii*) is a freshwater crocodile found along the Atlantic coast of Mexico, Guatemala, and Belize. It is listed as endangered throughout its entire range and is also listed in Appendix I of CITES. These listing actions were deemed warranted due to substantial population declines as a result of habitat loss and poaching. All three range countries have enacted laws protecting the Morelet's crocodile within their territories. However, given the current population status and continuing threats, it is doubtful that the species would qualify under the ESA for reclassification.

Part of Mexico's conservation program for this species allows a regulated removal of live specimens from the wild to establish parental stock for captive-breeding operations. This practice is part of a comprehensive conservation and management program for Morelet's crocodiles, which includes sustainable use of the species to encourage its conservation. As part of that program, a significant number of young are annually returned to the wild, and enhancement actions are focused on the wild populations. As a result of this management program, Mexico had been able to register its captive-breeding facilities with CITES to allow international commercial trade. In the case of specimens originating from CITES-registered breeding facilities, the species is treated as a CITES Appendix-II species, and, therefore, only a CITES export permit issued by the exporting country is necessary. However, this international trade is still excluded from the United States because of the species' endangered status under the ESA.

The FWS recognizes that crocodilian species managed as a sustainable resource in some cases can be utilized for commercial purposes while not adversely affecting the survival of the species. When certain positive conservation conditions have been met, we have acted to allow utilization and trade from managed populations of the American alligator (*Alligator mississippiensis*), Nile crocodile (*Crocodylus niloticus*), and saltwater crocodile (*Crocodylus porosus*). Under the proposed policy, we would consider allowing the importation of products produced by these captive-breeding facilities if they can demonstrate a clear enhancement of the wild population. The potential for trade with the United States, a major importer of leather products, could further encourage Mexico to intensify its conservation efforts for this species in the wild to meet the stricter import requirements under the ESA.

Straight-horned Markhor

The Pakistan population of straight-horned markhor (*Capra falconeri jerdoni*) is listed as endangered under the ESA and included in Appendix I of CITES. A sport-hunted export quota for Pakistan was approved by CITES in 1997. While reclassification of the subspecies within Pakistan under the ESA is not considered likely due to continuing concerns about the overall status of the subspecies, the Torghar Hills region of Pakistan has a successful community-based management program that has significantly enhanced the conservation of local markhor populations. Under this example, this proposed policy could allow consideration of applications for the importation of sport-hunted trophies from this population, if the necessary enhancement finding could be made, as an incentive to continue and expand the conservation program for this species.

In the early 1980s, local leaders of the Baluchistan Province became alarmed at the dramatic decline in markhor and other wildlife populations in the Torghar Hills region. The decline was attributed to a significant increase in poaching. In 1984 they sought assistance from professional wildlife biologists in the United States on the design of a scientifically based management program for the markhor and other species, and the Torghar Conservation Project was initiated. The project was simple. Local tribesmen were requested to refrain from hunting in exchange for being hired as salaried game guards to prevent poachers from entering the Torghar Hills region. Game guard salaries and other costs of the project would be defrayed entirely by trophy fees paid by foreign hunters to take a small, strictly controlled, annual quota based on the best biological information available on the status of the markhor and other wildlife species in the area.

Currently, the project employs more than 50 local game guards, protecting approximately 1,000 km^2 of habitat. The project has eliminated poaching in this core protection area, and, as a result, markhor populations, virtually extirpated by 1984, have increased steadily. Since 1994, the markhor population has doubled and is considered to be of adequate size and condition to sustain a small (1–2% of the population) annual trophy harvest. Systematic field surveys have been conducted in the region since 1994 as part of the management program, supported in part by the FWS through its Wildlife Without Borders-India program. The project was maintained informally until 1994, when an officially registered non-governmental organization, the Society of Torghar Environmental Protection (STEP), was established to administer the project. Currently participation in this program is limited to foreign hunters primarily from Europe. Allowing a limited number of U. S. hunters an opportunity to import trophies taken from this population could provide a significant increase in funds available for conservation and would provide a nexus to encourage continuation and expansion of the project into other areas.

Asian Bonytongue

The Asian bonytongue (*Scleropages formosus*) is a tropical freshwater fish native to Indonesia, Thailand, and Malaysia, and islisted as endangered under the ESA and included on Appendix I of CITES. Although the species was historically harvested for consumption, its demand for the aquarium pet trade, along with other factors such as habitat loss, resulted in significant declines throughout its range. Reclassification of the species under the ESA is not likely due to continuing concern for its overall status. However, since the greatest single threat to the species is illegal collection for the pet trade, captive propagation that results in a controlled legal supply of specimens could significantly reduce the pressure on wild populations. Additionally, the breeding of native species in captivity for commercial

purposes may, in some cases, facilitate the eventual release to the wild of a percentage of the progeny from such operations.

In 1986, efforts began on the development of captive propagation techniques for the Asian bonytongue. In 1992, the first captive-breeding facility was registered under the requirements of CITES, and legal exports began. There are currently 28 registered breeding facilities in these three countries, reportedly with an annual production level of around 300,000 fish. Each exported specimen is marked with a coded microchip to assist law enforcement efforts to help ensure that only legally produced fish are traded. The CITES requirement for certifying facilities as bred in captivity is designed to remove collection pressure on wild populations and ensure that trade is not detrimental to the survival of the species, but CITES does not require in-situ conservation projects.

Since the approval of the first captive-breeding facility, we have denied several permit applications for the import of captive-bred Asian bonytongue. As one of the world's largest importers of aquarium fish, the United States could play a significant role in encouraging conservation of the Asian bonytongue through the issuance of permits if we require, as a condition of issuance of an import permit, that the specimens are bred in captivity and, a program is established to conserve the species in the wild . Our willingness to consider allowing import of captive-bred fish under ''enhancement of survival'' permits could provide an incentive for development of new conservation programs.

Wood Bison

The wood bison (*Bison bison athabascae*), native to Canada, is currently listed in CITES Appendix II and as an endangered species under the ESA. Because the wood bison is an Appendix-II species, Canadian wildlife authorities are not required to establish a quota for the export of live or trophy animals. Therefore, Canada is actively managing their bison population with a variety of management techniques, including limited sport-hunting. The FWS is currently evaluating whether downlisting the species is warranted under the ESA; however, this process is time consuming. Under this proposed policy, if an enhancement finding could be made based on Canada's present management practices, a limited number of sport-hunted trophies and live animals could be imported to further the conservation and recovery of the species while the downlisting process continues. A significant demand exists for both live animals and sport-hunted trophies in the United States. By issuing a limited number of permits that would require continuing conservation of the species in the wild the species would benefit.

The free-ranging population of about 5,000 wood bison is restricted to 11 herds in the Canadian provinces of Manitoba, Alberta, British Columbia, Yukon, and the Northwest Territories. As of 2000, approximately 2,500 of the free-ranging animals were in 7 disease-free herds. There are also around 400 animals in the Elk Island and Hook Lake Salvage captive-held disease-free herds that will be used for restocking and recovery purposes. The remaining bison in four herds in the Wood Buffalo National Park area are not disease free. It is estimated that the provincial and First Nation herds (diseased and disease-free combined) will double by 2004 at the present rate of increase. The Canadian recovery program goal is the establishment of 4 free-roaming, disease-free herds of 400 animals each. The recovery team estimates this goal will be achieved by the end of 2003. Throughout Canada and the United States, 700 to 1,000 animals are in private ownership. There are no wild or free-ranging populations in the United States.

The provincial and First Nation herds are managed with consideration for the national wood bison objectives: (1) Re-establish viable, healthy, free-ranging populations where possible in the original range; (2) ensure the genetic integrity of wood bison; (3) restore healthy herds for long-term sustainable use (for rural communities); and (4) encourage long-term cooperative management programs in which rural communities and aboriginal people play an integral role. Both the genetic management of the herds and the community programs involve limited sport hunting of surplus animals.

Because of the current listing of wood bison under the ESA, we have not issued import permits for sport-hunted trophies. Under this proposed policy, however, we could take into account Canada's excellent management of the bison. If, by reviewing the management program that has been established by the Canadian Government and the First Nations, we can determine that the importation of sport-hunted trophies could further enhance the survival of the species, then we could consider the issuance of a limited number of permits. As with most conservation programs around the world, work is limited by the availability of funds to carry out the goals of the program. Allowing a limited number of imports of sport-hunted trophies and live animals into the United States could provide a significant increase in funds available for conservation of the species in the wild, and would provide a nexus to encourage continuation and expansion of the project into other areas.

Asian Elephant

The Asian elephant (*Elephas maximus*) is listed as endangered under the ESA and in Appendix I of CITES. The Asian elephant historically ranged throughout India, Southeast Asia, and China. However, due to extensive habitat loss and poaching, its numbers have been dramatically reduced and are restricted to isolated populations within its range. In many areas, the species has been extirpated. Given its current status, it is very unlikely that the species could be downlisted under the ESA. In addition, although the Asian elephant is provided the protection of listing in Appendix I, only a limited number of other activities under CITES contribute to ensuring the species' survival. While the listing of the species in Appendix I does control international trade, this listing provides little for the conservation for the species within its range. Under this proposed policy, the permitting process could contribute to the enhancement of the species through the consideration of the importation of live animals when linked with conservation efforts within the elephant's range.

The Asian elephant is one of the more recognized animals to people from around the world due to exposure to the species through circuses and zoos. The United States has a relatively large population of captive Asian elephants. However, captive breeding has not been very successful, and the breeding stock is getting old and may soon be unable to breed. While offspring, particularly first generation, have been born, second-generation offspring have not had reproductive success. Therefore, currently, given the breeding animals available, it would appear that the captive Asian elephant population within the United States will continue to decline. This decline has raised a significant demand among the zoo and circus community to obtain additional stock from Asia. In relation to this, the number of elephants available for export within Asia is increasing due to the capture of problem animals and the decline in the use of elephants for traditional labor, such as timber harvest. Many countries within the elephants' range are facing a crisis due to the inability to handle these ''surplus'' animals.

Through the implementation of this proposed policy, it would be possible to contribute to the species' survival in the wild. By providing an opportunity for facilities within the United States to apply for and obtain import permits for Asian elephants, on the grounds that the importation provides direct conservation benefits to the wild population, the ESA could be used to promote *in situ* conservation projects that are funded and supported by U.S. zoos and circuses. In addition, under this proposed policy, export of live animals or genetic material to promote captive breeding in other countries could also be tied to conservation work within the species' natural range.

Other Listed Species

The species in the above examples are all listed as endangered under the ESA, however, we believe that certain threatened species could also benefit from this proposed policy. While it is true that a significant number of permits issued for threatened species are issued for other purposes, the FWS has denied permits for enhancement for these species. This policy could be used to promote and encourage activities that would provide for *in-situ* conservation programs for threatened, as well as endangered, species.

Policy on Permits for Enhancement of Survival

1. What Is the Purpose of This Policy?

This policy expands the conditions under which we will consider the issuance of import permits under Section 10(a)(1)(A) of the Endangered Species Act (ESA), and under our existing regulations found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32 for enhancement of survival of foreign species listed under the ESA as endangered and threatened respectively. These permits would be available only in certain carefully limited situations where the range country and/or the applicants have established a substantive conservation program for the species and the import or export meets all relevant requirements and resolutions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The ultimate goal of permits issued under this policy would be to provide incentives to encourage developing countries to conserve foreign ESA-listed species and their habitats, and to promote in situ conservation efforts by applicants.

This policy would provide incentives recognizing and supporting those range countries that have demonstrated significant commitment to implementing conservation programs for endangered species. Under this policy the necessary permit finding of ''enhancement of survival'' under the ESA would take into consideration the overall net impact, both direct and indirect, of allowing the import or export of the species or its parts or products, as offset by the implementation of a conservation program for that species in the range country.

The listing of a foreign species under the ESA provides recognition of its plight and generally prohibits the import of the species or its products into the United States. When such import would involve take of animals from the wild or commercial trade, the prohibition on import may be in conflict with ranching or captive-breeding operations that have been authorized by CITES. The opportunities to influence actual species conservation in other countries are limited, since key provisions of the ESA, such as recovery, consultation, and prohibitions on take, do not apply overseas. The application of the ESA to foreign species, and thus the United States' ability to influence their conservation, is collateral in nature, with range countries retaining ultimate authority and responsibility for species conservation. Moreover, the effectiveness of those tools that the ESA does provide for foreign species—such as import restrictions—often depends on whether their use can help encourage the range country to protect the species.

In recent years many developing countries have seen sustainable-use programs as the way to conserve wildlife species and their habitats in the face of increasing competition with other land uses. We have used the flexibility provided for threatened species in Section 4(d) of the Act to adopt special rules allowing for imports of certain sport-hunted species, such as African elephants and leopards, and the import for commercial purposes of certain crocodile parts and products. Under this expanded policy, we will broaden this concept on a limited, case-by-case basis, through the issuance of Section 10(a)(1)(A) import permits for listed species—but only if the necessary enhancement-of-survival finding can be made, in addition to all of the findings required by the CITES treaty and any relevant resolutions adopted by CITES Parties for species also covered by CITES.

This policy would provide a mechanism to consider the issuance of permits under certain circumstances for carefully selected foreign ESA-listed species in response to a conservation plan that offsets any limited take from the wild and further promotes the conservation of the species. Such findings would serve to create a real incentive for foreign nations to establish programs that conserve both wildlife and their habitats. The policy limits the scope of such enhancement-of-survival findings to the development and implementation of management plans in the range country only in appropriate and compelling situations, and where applicants can show direct in-situ conservation benefit from the proposed activity. This policy would not apply to situations that were not fully consistent with CITES. It would also not apply where we have adopted or are developing a separate policy on import or export permits for a particular species (such as our Policy on Giant Panda Permits, published in the **Federal Register** on August 27, 1998; 63 FR 45839).

2. What Are the Permit Application Procedures and Issuance Criteria?

For consideration under this policy guidance, you must follow the current application process and issuance criteria as described in our regulations at 50 CFR part 17.22, for endangered species, and 50 CFR part 17.32, for threatened species. This application process is approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act; the OMB control number is 1018–0093.In applying the issuance criteria for applications to import a listed species or its parts or products, we may take into account how that action may relate to the implementation of a management program for that species in the range country, including carefully regulated sport hunting and commercial captive breeding and ranching, and whether the activity has been authorized under CITES, when so listed.

Consistent with the ESA and 50 CFR 17.22, notice of each application for a permit for endangered species will be published in the **Federal Register**. Each notice will invite the submission from interested parties, within 30 days after the date of the notice, of written data, views, or arguments with respect to the application, prior to issuance of any enhancement-of-survival permit pursuant to this policy.

3. How Will This Policy Be Consistent With CITES Requirements and Resolutions or Range Country Management Plans?

For us to consider your permit application under this policy, *at least*

one of the following conditions must have been met:

a. The species (or certain populations of the species) is listed in CITES Appendix II, and all trade is in accordance with all requirements in CITES Article IV, as well as in accordance with any relevant resolutions adopted by the CITES Conference of the Parties; or

b. The species (or certain populations of the species) is listed in CITES Appendix I, and (1) sport-hunted trophies, or other specimens, are traded in accordance with all requirements in CITES Article III, as well as in accordance with all relevant resolutions and quotas adopted by the CITES Conference of the Parties and supported by the United States; or (2) commercial trade in ranched or captive bred specimens is in accordance with Article VII.4 of CITES and with any relevant clarifying resolutions and quotas adopted by the CITES Conference of the Parties; or

c. The species (or a certain population of the species) is covered under one or more conservation programs in the range country that have support of the relevant management authorities, and these programs contribute directly to enhance the survival of the species in the wild.

4. What Benefit to the Species Must Be Shown?

In addition to the requirements of Part 3 above, you must also provide sufficient information for us to be able to reasonably conclude that a conservation program has been established in the range country for the species that is likely to provide a net benefit to the conservation of the species if the import of such species or its parts or products is allowed into the United States. You must also demonstrate that the application meets all the issuance criteria found in our regulations at 17.22(a)(2) and 17.32(a)(2), which among other things require that ''. . . the purpose for which the permit is required would be likely to reduce the threat of extinction facing the species . . .'' Inherent in this context is a substantial contribution to the conservation of the species in the wild, through direct or indirect means. Your application must involve an activity that meets the enhancement standard of Section 10(a)(1)(A) for any import finding for a listed species under the ESA, even in situations where such imports are not required to meet the CITES standard of ''no detriment.'' For example, this will include a determination that imports of ranched and captive-bred specimens not only meet the requirements of Part 3 of this policy, but also must be derived from a program that provides for conservation of the species in the wild.

A conservation program in the range country must be designed to enhance the survival of a species in a manner and at a level such that the objective of the program is either to maintain, or restore, biologically viable population levels for the long term. The conservation program would address relevant determinations of the productive capacity of the species and its ecosystem, to ensure that cumulative use does not exceed those capacities or the ability of the population to reproduce, maintain itself, and perform its role or function in its ecosystem. The sustainability of the population may be accomplished through the implementation of conservation strategies, consistent with the biological characteristics of the species and will take into account instances where limited biological data exist. All determinations will be made on a case-by-case basis for each species.

Required Determinations

Since the purpose of this draft policy guidance is to clarify existing regulatory authority and provide the public with an opportunity for us to consider issuance of permits for certain activities, we have determined that this policy would not result in significant costs of implementation to the Federal Government or the non-Federal program participants. We have also determined that the issuance of the proposed policy is categorically excluded under the Department of the Interior's NEPA procedures in 516 DM 2 Appendix 1.10. Based on the Service's evaluation of the public comments received, if a determination is made that an environmental assessment is required in accordance with Departmental procedures, an environmental assessment will be prepared for public review.

Public Comments Solicited

We request comments on our Draft Policy on Enhancement of Survival Permits. Particularly sought are comments on the issue of the relationship of the ESA to foreign-listed species and ways in which the ESA can be used to encourage the conservation of such species in the range country. We will take into consideration the comments and any additional information received by the Service by date specified above in **DATES.**

Dated: June 27, 2003.

Steve Williams,

Director, Fish and Wildlife Service.

[FR Doc. 03–20941 Filed 8–15–03; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–EU–24 1A; OMB Approval Number 1004–0029]

Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has sent a request to extend the current information collection to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On July 11, 2002, the BLM published a notice in the **Federal Register** (67 FR 45987) requesting comment on this information collection. The comment period ended on September 9, 2002. BLM received no comments. You may obtain copies of the collection of information and related forms and explanatory material by contacting the BLM Information Collection Clearance Officer at the telephone number listed below.

The OMB must respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be directed within 30 days to the Office of Management and Budget, Interior Department Desk Officer (1004–0029), at OMB–OIRA via facsimile to (202) 395–6566 or e-mail to *ORIA_DOCKET@omb.eop.gov.* Please provide a copy of your comments to the Bureau Information Collection Clearance Officer (WO–630), Bureau of Land Management, Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning to the BLM, including whether the information will have practical utility;

2. The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumption we use;

3. Ways to enhance the quality, utility and clarity of the information we collect; and

4. Ways to minimize the information collection burden on those who are to