

Comments filed on)
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DEPARTMENT OF THE INTERIOR)
Fish and Wildlife Service)
50 CFR Part 14) RIN 1018-AT69
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Regulations to Implement the)
Captive Wildlife Safety Act)

These comments will begin by showing that the premise on which the Captive Wildlife Safety Act is based, and these subsequent regulations is seriously flawed. The claims that these proposed rules will enhance public safety will be thoroughly examined. It will be shown that they will have virtually no effect on public safety. The comments will then go on to show how these rules will have a significant negative impact on the well-being and long-term survival of the big cat species, not only in captivity, but ultimately, in the wild as well. Finally, it will be shown that these proposed rules have an adverse effect on some of our constitutional rights as citizens in the United States of America.

MY BACKGROUND

My name is Tim Stoffel. I do not personally own any of the species covered by these proposed rules. I do help care for many of these animals at a local facility that is permitted by APHIS. It is my hope someday to be able to own a small number of these animals, specifically African lions. I will do this only when I am fully equipped to properly care for these animals for their entire lifetime. It is my desire not to commercially breed or exhibit my animals, thus making me exempt from the requirements of the AWA. I believe that the great cats are some of the greatest living treasures we have on this planet. I also believe that the great cats are imminent danger of extinction in the wild, and that captive husbandry is their only realistic hope for long-term survival. To this end, let us take a closer look at the reasoning behind the CWSA, and its resulting regulations.

BACKGROUND OF THE CWSA

The Captive Wildlife Safety Act was introduced by Senators John Ensign (NV) and Jim Jeffords (VT) in early 2003. It was passed nearly unanimously by both houses of Congress in a last-minute mass bill-voting session, and signed into law in December of that year. As stated in your RIN, here is the purpose of the law:

The purpose of the CWSA is to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species and to protect the public from dangerous animals.

It is highly questionable how this law will help conservation. Conservation of any animal species requires that the species reproduces. This law and the subsequent proposed rules significantly interfere with the ability of large percentages of the captive big cat population to breed in a manner consistent

with long-term survival. It has zero direct effect on conservation in the wild, and a negative long-term impact on such conservation. The ‘protection of the public’ is also an inaccurate and misleading statement in that the dangers of these animals to the general public are almost nonexistent.

The real intent of this law is a first step in eliminating the population of captive big cats in the US, and in the future, all ‘exotic’ animals. Laws prohibiting the ownership of these and many other species of ‘exotic’ animals have failed in congress in previous sessions. This law represents a different approach, an approach where a minimal law is placed on the books and will be added to incrementally until the original purpose (i.e. totally banning the ownership of exotic animals) is achieved. (A bill adding all species of primates to the CWSA is currently before Congress.)ⁱ Big cat owners specifically, and exotic animal owners in general, are being unfairly targeted because they are a relatively small group, and tend to invest their time and money in their animals, not fighting legislation.

The CWSA is ultimately the brainchild of the Captive Wildlife Animal Protection Coalition (CWAPC) This is a group whose principal members are major animal rights organizations. The major animal rights groups in this country have, as their stated goal, the removal of all animals from human society. A number of these groups believe that this ‘high calling’ of eliminating animal ownership and use is so important that they can act above the law. The Animal Liberation Front (ALF) and the closely allied Earth Liberation Front (ELF) have cost society millions of dollars from their acts of vandalism, arson and property destruction. They are considered by the FBI to be the most dangerous domestic terrorist organizations.ⁱⁱ Other groups, like Stop Huntington Animal Cruelty! (SHAC!) have conducted campaigns of harassment and property destruction, including threatening actions against children. A number of people from SHAC are currently standing trial for their actions.ⁱⁱⁱ

People for the Ethical treatment of Animals (PETA) has given support and money to ALF people. They are not ashamed of this; they openly admit it.^{iv} Many people from PETA have gone over to the Humane Society of the US (HSUS), making their motives questionable as well. This organization is not on the surface as radical as PETA, but they work to see laws like the CWSA passed, and have nearly infinite legal and lobbying resources. Other notable animal rights groups include the Fund for Animals (FFA), which recently partly merged with HSUS to form a more effective lobbying organization.^v Other groups worth mentioning, that have significant resources and uses them to affect legislation, are the International Fund for Animal Welfare (IFAW), and the Animal Protection Institute (API). API is behind a lot of the exotic animal ownership ban laws at the state level. In fact, API recently attacked a number of private animal owners in the Pacific Northwest, by sending around a couple of spys posing as tourists, and making a falsified expose’ out of the information collected on their ‘tour’. This stunt was in part, to help promote an exotic animal ownership ban law now under consideration in the State of Washington. These groups do not seem to be afraid to use whatever means necessary (legal or otherwise) to promote their cause and get money from people who do not understand what they are about. The Center for Consumer Freedom, and its sister site, AnimalScam.com have extensive materials about the major animal rights groups that are worth checking out.^{vi}

It has also come out that John Ensign, author of the CWSA, received a significant campaign contribution from the HumaneUSA PAC, a branch of HSUS. Mr. Ensign received the maximum allowable amount of \$5,000. Only one other lawmaker received a donation this big from this organization.^{vii}

In any case, people opposed to the CWSA were apparently not allowed at the hearings given for this bill. The only group opposed to it who was allowed to speak was the Fish and Wildlife Service, who pointed out a number of problems with the CWSA. Among the problems they observed were:

1. This law does not give any additional protection to wild cats (despite it's claims of 'conservation').
2. This law is duplicative. It duplicates may existing restrictions already existing under the USDA.
3. There are too many exemptions. The exemptions make it hard to determine who the law really applies to.
4. This law deals primarily with human safety and animal welfare. Assigning enforcement of this law to the Fish and Wildlife Service does not fit with their mission.^{viii}

All along the path this bill took through congress, the voices of those opposed to it were rarely heard.

Another group that has vociferously encouraged the passage of this bill is a certain group of animal sanctuary operators. Indeed, these are the very groups that are often exempt from the provisions of this act. In some ways, their support of this legislation is understandable; some of the animals they have taken in (but by no means all or even most) came from deplorable situations. Although most sanctuaries support some regulatory control over exotic animals, there are a handful that believe in total bans (even on big zoos) and systematic extermination of our captive big cat population.^{ix} At the same time, these sanctuaries have engineered into these proposed rules, exemptions for themselves. That way, they can collect all the displaced big cats that result from the action of these proposed rules, and let them die off in their facilities. Thus it helps the animal rights groups in their goal to eliminate big cats from our society. It also allows these sanctuary operators to 'enjoy' having these marvelous animals with few restrictions, while the responsible private (or 'pet') owner must live with the restrictions these proposed rules place on them.

Vernon Weir, of the American Sanctuary Association has even come out and said that most of the big cats coming to their sanctuaries for placement-- I seem to remember 70 percent of them-- are from APHIS-licensed facilities. For last year, he reported that big cat placements from APHIS-licensed sources have dropped dramatically, and that numbers needing placement from private owners has not changed significantly.^x If Mr Weir, who is at the helm of a major sanctuary association, and not exactly a friend of private big cat ownership, is willing to share this information, it shows someone who is willing to be honest about what is really going on. If his organization is not seeing a huge influx of big cats coming to them from private owners, it is not likely the other sanctuary associations are, either. Therefore the oft-heard cry that 'hundreds of big cats from private owners need placement every year,

and the number is growing' should be seriously questioned.

Regardless of how the commercial sector behaves, the private owners take the fall. Every time there is an incident at an APHIS-licensed facility, the major animal rights groups use it as an opportunity to attack the private owners. As shall be shown statistically later, the private owners are not the problem they are made out to be.

In light of all of this, it is clear that this bill is nothing more than part of the animal rights agenda. It is a thinly-veiled attempt to eliminate the US's big cat population. It should have never gotten through Congress, but it did. As such, it behooves the Fish and Wildlife Service to write the minimum regulations it can to effect this badly-cast law. Let us now consider the details of how this bill will hurt big cats and their owners, and not benefit the general public.

DANGEROUS BY NATURE??

From the RIN:

The large cats are hunters by nature and, regardless of whether they were raised in captivity, it is impossible to predict when they will revert to instinct. Contemporary experts on large cat behavior and physiology note that humans are not part of the large cats' natural diet, largely because the large cats have learned to treat humans as another predator and to be wary of the dangers of human activity; for example, hunting and habitat encroachment. When large cats and humans do share territory or interact, usually because of human activity, any number of reasons, including hunger, can cause large cats to attack and inflict serious injuries. They are wild creatures that are never completely tamed, nor are they totally predictable, even if they have lived their entire lives with humans.

Of course, we are all taught from our youths that the big cats are ferocious killers. This is the 'storybook' view of these animals, and it is about as far from reality as saying that the big cats are 'cuddly furballs'.

All animals, including your house cat or dog will behave on instinct; they are animals after all. However, even instinctual behavior can be modified by raising the cat properly. You can't ever take for granted the behavior of any large animal, and this includes common animals like cows, horses, etc. In some ways the cats are safer than the aforementioned animals in that they enjoy being around a person they are bonded to. In any case, most captive big cats do not look on their keeper as food. They look at them as a friend. In fact, this close relationship actually results in a lower rate of serious incidents among private owners. We will examine this statistically later. The tagging of captive large cats as 'wild animals' is fallacious (and the work of animal rights propaganda). They simply do not exhibit much in the way of 'wild' behavior.

Truly wild cats behave quite differently. They are in an 'eat or be eaten' kind of situation where the need to survive is paramount above every other need. As a result, wild cats are wary of man, and they are much more likely to attack humans as they perceive them as a real threat. Habitat encroachment or destruction only makes this worse. In southeast Asia and India, where there is still a significant number of wild tigers, some 50 people are killed each year by the wild cats. Deaths from wild lions is on the increase in some parts of Africa, and has historically averaged 35 a year just in Tanzania.^{xi} Here in the US, we are having increasing problems with wild cougars, especially in the southwest and west. These cats will defend their territory and their families. They don't think twice about killing an intruder. That's the way it has always been. But, the need to kill intruders has not been often observed before we started to take over the cougar's habitat. However, in captivity, when the cat is well cared for, there is not that 'eat or be eaten' pressure, so these 'wild' behaviors are rarely observed. It can be easily argued that there are now more big cats in captivity than are in the wild. Yet, the worldwide death toll from captive big cats is very low, around four a year. This is more than an order of magnitude less than deaths from the now less common wild cats.^{xii}

In the end, is anything in life truly predictable? Is any endeavor absolutely safe, or can they be made absolutely safe? Government seems to be under the delusion that they can guarantee perfect safety. But they cannot, and should not be in the business of doing so. Responsible keepers know their cats well enough that serious injury/death is infrequent. So is having the wings fall off of an airplane. It does happen. In 2004, two C130 tankers lost their wings while fighting fires out here in the west. The crews of these aircraft were both killed, in the process killing nearly as many people as have been killed by big cats in the last 16 years. But, did they stop people from flying? Did they ban airplanes? No, they did not. (There were people who wanted to do this, though.) The same should be applied to those who choose to work with these remarkable animals. They know there is some risk, and they have accepted it. They should not be robbed of their ability to work with the noble and surprisingly loving animals because once in a great while someone does get hurt. And as shall be shown a bit later in these comments, any safety gains from these proposed rules will be minimal.

OWNERSHIP STATISTICS

From the RIN:

The ownership of large cat species has dramatically increased in popularity. It is estimated that thousands of individual large cats of various species are kept as pets in the United States. This increase is due, in part, to internet sales and auctions.

This is a dubious statistic. In fact, the USDA recently reported that the number of big cat in the US had not changed significantly in the last few years. No credible study exists to say how many big cats are in private hands. In fact, the population is most likely starting to decline due to the sweeping wave of regulation and ownership bans that have followed the signing of the CWSA. For the purposes of these comments though, I will assume their oft-reported figure of 10,000 (total) big cats in the US.^{xiii}

If the big cat population was really increasing as dramatically as has been claimed, and the cats were as dangerous as the animal rights people are telling us, we should see a significant increase in big cat accidents. This is simply not happening, as will be explained in detail later in these comments.

The Internet has very little to do with the supposed explosion of big cat in this country. In fact, it's hard to find any place that is selling them, and this has been true as long as the Internet has been around. Few, if any accounts of cat 'rescue' have indicated that the cats were bought over the Internet. The Internet is also used on a regular basis to facilitate 'legitimate' animal transactions. At the same time, the Internet has provided a valuable tool that helps cat keepers take better care of their animals. It has caused membership in responsible ownership groups to increase substantially.

One of these groups is the Feline Conservation Federation (FCF). They exist to teach people about the 38 species of felines we share this earth with. They provide information to their members on how to responsibly own these special animals. They offer a husbandry course a few times a year, in various places around the country to teach people how to properly care for an exotic feline. This program has become so well-recognized that USDA is sending APHIS inspectors to these classes for training. The FCF also hosts an annual convention that frequently features speakers from APHIS, as well as the FWS.

Although the Feline Conservation Federation frowns on people who irresponsibly own big cats, they at the same time, encourage responsible ownership of these species. In fact, a significant part of their membership are big cat people.^{xiv}

This increase in popularity has raised concerns for public safety as well as for the welfare of the big cats. As the cats are often purchased when young, many owners are unable to cope with the high maintenance needs of the mature cats. Too often, the owners lack the resources and veterinary knowledge these grown cats require. In the hands of untrained exotic- pet fanciers, large cats are not only a potential danger to people, but are often victims themselves.

But, if the numbers of these animals is really as high as the animal rights groups say it is, why is only a small percentage of these cats in trouble, or ending up in sanctuaries? There must be a lot of people out there taking good care of their big cats, and never receiving much notice.

Finally, one factor that makes any 'big cat crisis' self-limiting is the 'common sense factor'. The vast majority of people in this country do realize that cannot properly care for a big cat. Furthermore, the fear factor mentioned earlier, is enough to keep most people from even considering owning a big cat.

THE REAL SAFETY STATISTICS

The animal rights people distort the safety statistics more than just about anything else. In this section, a detailed analysis will be given of these statistics.

From the RIN:

Over the past 10 years, there have been thousands of incidents of human injury and death documented, involving many different species of wild animals, many of which were large cats. According to the Captive Wild Animal Protection Coalition, in the past 5 years there have been 123 incidents involving large cats, including 87 injuries or deaths to adults and children and 38 animal escapes.

The statistics in the above text were not broken down to show the actual significance of the problem, or who is being harmed by these animals. The general nature of these statistics misleads one into believing that there is a much bigger problem than there really is.

The actual statistics paint a very different picture about the real risk from these animals. Consider first of all the number of people killed by these animals. This is the most reliable indicator of the real risk, because there is no varying degree of death, as compared to just being injured. Death statistics are also reliable, because they almost always make the news headlines, and are therefore easily found by searches of the Internet.

The data for the following statistical analysis has been collected for us by animal rights people. This data collection is believed to be the most reliable collection available, because it is in their best interests to magnify the 'problem' as much as possible. The data set used^{xv} was chosen because it goes back farther than CWAPC's records that are available on the Internet. A comparison of the two sources shows them to be in close agreement, especially for cat-related deaths.

Table 1
Year-by-year breakdowns of deaths caused by big cats in the US.
1990-2005

Year	# of	# of	Total	Deaths at:					5 yr moving average
	adult deaths	child deaths		APHIS Facil.	priv. Facil.	Anim. kprs	part. public	Fam. memb	
2005	0	1[1]	1	1	0	0	1	0	1.6
2004	1	0	1	1	0	1	0	0	1.4
2003	2	1	3	2	1	2	0	1	1.4
2002	0	0	0	0	0	0	0	0	1.2
2001	2	1	3	2	1	2	0	1	1.6
2000	0	0	0	0	0	0	0	0	1.0
1999	0	1	1	0	1	0	0	1	1.2
1998	2	0	2	2	0	2	0	0	1.2
1997	2	0	2	2	0	2	0	0	0.8
1996	0	0	0	0	0	0	0	0	0.4
1995	1[2]	0	1	0	1	0	1	0	0.4
1994	1	0	1	1	0	1	0	0	0.2
1993	0	0	0	0	0	0	0	0	N/A
1992	0	0	0	0	0	0	0	0	N/A
1991	0	0	0	0	0	0	0	0	N/A
1990	0	0	0	0	0	0	0	0	N/A
Totals	11	4	15	11	4	10	2	3	

[1] The child killed was 17 years old, and was behaving in an adult capacity at the time.

[2] This table omits a death that occurred in 1995 that was unquestionably a suicide.

COLUMN EXPLANATIONS:

The columns labeled 'deaths at' are explained as follows:

APHIS facil: Facilities operating under a license from APHIS under provisions of the AWA.

priv facil: These are any facilities not licensed by APHIS, or 'private owners'.

anim kprs: These are animal keepers, trainers, zoo employees, owners, etc.

part public: members of the public who were willingly participating in an animal-related activity.

fam memb: the deceased was immediate family member of the cat's owner.

In 16 years, there have been 15 unintentional deaths to Americans that were caused by big cats. This works out to just 0.94 death a year. The average in the chart shows that, although the average deaths per year ranged from 0.2 to the current level of 1.6 deaths per year, that it is not increasing exponentially, nor is the number of people killed statistically significant compared to the population at large. Notice that the last two years have shown historic average death rates. And this is happening

even though there is not likely to have been a statistically significant decrease in the population of big cats in this country. This dispels the myth that there is a rapidly growing big cat problem in the US.

Most of the deaths occurred among people working with these animals (10, or 66 percent). These people made a choice to work with animals, and could have chosen a different line of work if they wanted to. People who work with these animals generally enjoy working with these animals. Many who have been injured by a cat cannot wait to get back to work with their animals when they have recovered.

The only significant problem this table shows is that a number of children have been killed by big cats. The child killed in 2005 was in her upper teens, and was willing and knowingly participating in a photo opportunity with a tiger. If it wasn't for her age (17 years), she should have been counted as an adult. This incident happened at an APHIS-licensed facility, which is exempt from these proposed regulations. The other three children killed were all family members of the cat owner. There is a penchant for otherwise well-mannered cats to attack children because they are small enough to be considered easy prey by the cat. These deaths are unfortunate, and work is needed to ensure there aren't more deaths of this type. However, this problem should be corrected by better education of cat owners, and not by eliminating these animals from our world.

The remaining non-keeper incident involves a private owner, who had a friend of theirs killed by a lion when they were visiting. This was 10 years ago, and there have been no similar incidents since then. Compare this to the the number of people killed while working at APHIS-licensed facilities, and you will find that only 33 percent (5) of the deaths that have occurred in this country in the last sixteen years are due to private owners. And if we are to believe the animal rights people, the private owners have far more cats.

This table also shows one very important statistic by it's omission: there have been no members of the general public at large killed by big cats in the US in at least the last sixteen years (which is as far as the available data goes back). ('General public at large' is defined as persons who are not participating in an animal-related activity at the time they are killed.) There is a general feeling in the text of the RIN that the proposed rules will help enhance the safety of the general public. This is apparently not the case, based on the statistics. The public is in very little danger as it is with the current big cat populations.

A comment on the statistics presented here: Note that there is a noticeable increase to a new level around 1995. This may be due to the widespread use of the Internet that began about this time. The Internet has made it easier to find information on just about anything that would appear in newspapers (where most of this information ultimately comes from). If a much more exhaustive search could be made of pre-Internet newspaper archives, I suspect that the incident level would be higher for the years prior to 1995. However, I would not expect this level to be significantly higher or lower than the data for 1995-present, as there has always been a significant population of big cats in the US.

Let us now turn our attention from deaths to serious injury by big cats. One could argue that perhaps focusing just on deaths is hiding a far larger problem. Although it would be logical to assume more people are injured than killed by these animals (and that is the case), one could also argue that perhaps the injury statistics will show that the private owners (who are the principal target of these proposed rules) have a far larger problem with big cat injuries.

Table 2
Year-by-year breakdown of serious injuries caused by big cats in the US.
1990-2005

Year	# of Incid	adult	Injuries		# APHIS	# non- APHIS	Public memb.	5 yr
			child.	Total				moving Average
2005	2	1	1	2	1	1	1	5.6
2004	7	6	2	8	5	2	2	6.8
2003	9	10	1	11	6	3	1	7.0
2002	8	7	2	9	5	3	3	7.4
2001	2	2	0	2	1	1	1	7.0
2000	8	4	4	8	6	2	2	7.2
1999	8	5	3	8	5	2	4	6.8
1998	11	10	2	12	10	0	0	5.6
1997	6	5	1	6	3	3	1	4.6
1996	3	2	1	3	2	0	1	4.2
1995	6	4	2	6	4	2	0	3.8
1994	2	2	0	2	1	1	1	3.2
1993	6	5	1	6	6	0	1	N/A
1992	4	3	1	4	3	1	1	N/A
1991	1	1	0	1	1	0	0	N/A
1990	3	2	1	3	3	0	2	N/A
Totals	86	69	22	91	62	21	21	

COLUMN EXPLANATIONS:

APHIS: Facilities operating under a license from APHIS under provisions of the AWA.

non APHIS: Facilities not under a license from APHIS, i.e. Private owners and some sanctuaries.

Public memb.: Unlike the death table above, this number represents the number of members of the public who are both participating in an animal-related activity, and those who are not.

5 yr moving average: The 5 year average of people injured for that year.

The table above is only for serious injuries caused by big cats. In their data, the animal rights folks have purposely lumped trivial, minor and severe injuries together as ‘injuries’ in attempt to make the

problem appear larger than it really is. The general criteria used was if an injury was life-threatening, severely disfiguring, or required an inordinate amount of treatment, it was considered severe. In many cases, it was difficult to decide whether an injury was serious or not. Therefore, if you attempt to reconstruct this table from the same data set, you will probably end up with different results. There are more injury incidents to evaluate, and they are often not as well documented as the cat-caused death incidents were.

The first thing that is apparent from this table is that the average number of serious injuries/year is dropping. I suspect that this is due to a combination of things: Better education of cat handlers, higher handling standards, and more laws preventing public contact with the cats. And this is happening despite an alleged rapid increase in the US big cat population.

Now, here is some analysis of the data used to create the above table:

Overall average of severe big cat injuries: 5.7/year

Adult injuries average 4.3/year

Child injuries average 1.4/year

75.8 percent (69) of the overall injuries were to adults. Of those injuries:

81.1 percent (56) occurred at APHIS-licensed facilities.

16.0 percent (11) occurred at non-APHIS licensed facilities.

2.9 percent (2) occurred at facilities whose APHIS status was not deducible.

24.2 percent (22) of the overall injuries were to children. Of those injuries:

50.0 percent (11) occurred at APHIS-licensed facilities.

45.5 percent (10) occurred at non-APHIS licensed facilities.

4.5 percent (1) occurred at facilities whose APHIS status was not deducible.

Overall:

73.6 percent (67) occurred at APHIS-licensed facilities.

23.1 percent (21) occurred at non-APHIS licensed facilities.

3.3 percent (3) occurred at facilities whose APHIS status was not deducible.

Of those adults injured:

71.4 percent were identified as animal keepers, trainers, handlers, volunteers etc.

12.5 percent were identified as workers or employees, and may or may not have been animal caretakers. But, they were working around the animals.

83.9 percent of adults injured were therefore somehow involved with animal care.

Only 16.1 percent of adults injured were not involved somehow in animal care.

Only 6 injuries, or 7 percent of the injury incidents involved an escape, as far as the brief descriptions

given in the data indicate. Only 1 injury involved an escape of a big cat beyond the facility's perimeter fence.

What we can see from these statistics is that the vast majority of the injuries is happening at APHIS-licensed facilities, which are exempt from these proposed rules. An even greater percentage of the people injured are actually involved with animal care, either public or private. These people have chosen this career, and could choose to work elsewhere. The attitude of most animal keepers I have met (and this includes myself) is that the risk of injury comes with the choice to work with animals, and that the rewards of being able to meaningfully interact with the animals is worth the risk.

These statistics also dispel a commonly-held myth that when big cats escape, they attack everyone they see. There are at least fifteen other big cat escapes listed in the data set where a cat got out of the facility (i.e. Beyond the perimeter fence) and only one where someone got seriously hurt. Although escapes are highly undesirable, their seriousness is grossly overplayed by the media and by the animal rights people.

To sum things up, when the injury statistics are examined, they show that there is even a bigger discrepancy between injuries caused by cats at APHIS-licensed facilities, and cats held by private owners. The private owners simply have a far better safety record.

Many people are killed or injured by animals we today take for granted. Horses, cows and other farm animals injure and kill many people both at home and on the job. In fact, in the years 1992-2002, an average of 18.3 people a year were killed on the job by cattle. Another 10.1 per year were killed on the job by horses.^{xvi} If the number of people killed by the recreational use of horses were added, the latter figure would undoubtedly be much higher.

Let us now consider how much safety risk exists to big cat keepers in comparison with other dangerous occupations. Coal mining is a common occupation in some regions of the country, employing about 80,000 people in the US. In the years between 1992 and 2005, an average of 35.9 people were killed each year in coal mining occupations.^{xvii} We will assume the figure of 10,000 big cats in captivity in the US, and 3 cats owned on average per keeper. (Very few private keepers, in my experience, own just one cat.) That means that there are approximately 3,333 big cat keepers in the US. In approximately the same time period (1990-2005), 10 people have been killed who were described in the data as keepers of these animals. This works out to an average of 0.63 keepers killed per year. Adjusting for the much larger number of coal miners, the average death rate per year for this occupation is 1.5 per 3,333 workers.. Even in the safest year on record for coal mining (2005), where only 22 people were killed, the adjusted death rate is 0.92 people/year. Thus, keeping big cats is significantly safer than coal mining. Coal mining is not the only dangerous occupation in the US. There are many other occupations equally (or more) dangerous compared to coal mining: Agriculture (farming in particular), forestry, steelworking and firefighting are all considered dangerous occupations. Many of these are also common occupations.

We will now compare big cat safety to a popular recreational activity: snow skiing. Each year, approximately 39 people are killed in skiing accidents.^{xviii} Since skiing is a recreational activity, it should be compared to people who were not cat keepers, and were killed by big cats in the last 16 years. This is only 5 people, or 0.31 people/year. That is 0.79 percent of the death rate caused by snow skiing, or insignificant compared to an already insignificant cause of death. Even if compared to all people killed by big cats (keepers and non-keepers), skiing kills more than 39 times as many people each year. There are no calls for skiing to be banned. Therefore, there is no need for stringent rules like these proposed rules, to ensure that big cats disappear from our society.

Let us now compare the safety of big cats to a couple of 'acts of God'. The first is a death caused by some other animals: bees and wasps. The extant data indicates that stings from bees and wasps kill about 100 people per year.^{xix} In nearly all cases, stings from these animals are unintentional. The death rate from big cats in the US is therefore 1 percent of the death rate from bees/wasps. Another words, the bee that stings you at your home is far more likely to kill you than the tiger next door.

Lightning is another uncommon, and usually uncontrollable cause of death. Between 1990 and 2003, an average of 54 persons were killed by lightning per year.^{xx} Compare this to just under 1 per year for all people killed by big cats. This means that you are far more likely to get hit by lightning than killed by the neighbor's tiger. In short, big cats are a negligible cause of death in this country.

Much is always said about the safety of children. Four children died from big cats in the fifteen years covered by the data, or 0.27 children per year. Each year, a minimum of 900 children are killed by child abuse in this country.^{xxi} This means that a child's own parents are 3375 times more likely to kill the child than the tiger next door. If the Federal government really wants to protect the lives of children, they should invest more resources into fighting child abuse than to exterminate the country's privately owned big cat population!

A FALSE SENSE OF SECURITY?

If an assumption is made that these proposed rules eliminates all private ownership of big cats in the US (which it has been stated that this is not the intent of the proposed rules, but they will ultimately have this effect as shall be shown later in these comments), the maximum effect it can achieve is a 33 percent reduction in the already insignificant number of people killed by big cats, provided that all other factors stay the same. It will only reduce injuries by 23 percent under the same conditions. (These percentages are based on people injured or killed who are not visiting or working at an APHIS-licensed facility.) However, these proposed rules will not likely have this great an effect, as people can still own these animals in states where it is legal. And despite the serious inbreeding problem caused by these proposed rules, the cats will still be around for several cat-generations. So, even under the best conditions, any safety gains from this aspect of the proposed rules is likely to be minimal. This country does not need these draconian proposed rules.

From the RIN:

One of the main purposes of the CWSA is to prevent possible injuries resulting from the direct contact of the prohibited wildlife species with any member of the public. For any wildlife sanctuary to qualify for the ``accredited wildlife sanctuary'' exemption provided in the CWSA, the sanctuary must prevent the possibility of these injuries. While we understand that the keepers and caregivers for these species might, as part of their job, have limited contact with the animals, the possibility of any contact between the animals and any other member of the public must be eliminated. Activities that might result in contact between the prohibited wildlife species and any member of the public, such as photography, play sessions, or offsite programs, are prohibited for any accredited wildlife sanctuary that would qualify for the exemption to the prohibitions.

Under the AWA, a facility must be licensed by APHIS to do any kind of exhibiting of animals. 'Exhibiting' is defined as any showing of animals to the general public, and APHIS has a history of interpreting this definition rather broadly. Since any activity that would involve direct contact would by association, also involve exhibiting, this rule has absolutely no effect and does not need to be part of these rules. Direct contact is already prohibited or heavily regulated under the AWA.

CATS HAVE PHYSICAL AND EMOTIONAL NEEDS, TOO

From the RIN:

It is also important to note that the transport prohibition contained in the CWSA applies to any transportation of the prohibited wildlife species in interstate or foreign commerce, not only to transportation that involves commercial activity. This means that any person who owns a live specimen of a prohibited wildlife species and who wants to transport the animal in interstate or foreign commerce as a pet, or even as part of a household move, would not be allowed to do so under the prohibitions contained in the CWSA.

This provision of your proposed rules is going way beyond the original intent of the bill (as bad as that is already), and has the potential to cause emotional harm to the cat owner, and both physical and emotional harm to the cat(s) involved.

First of all, there are many situations that may force a person to move. A job change, health of relatives, or legislation banning the ownership of the cats in their state, etc. These are legitimate reasons to move, and have nothing to do with the so-called 'pet trade' in big cats. (Not that there is anything wrong with responsibly owning a big cat as a companion animal, which is what true pet ownership is. The physical, emotional and spiritual benefits of pet ownership are well documented.^{xxii})

As pointed out earlier, the bond between a big cat and its keeper can be quite deep. If a person is forced to move, the proposed rules give the keeper no choice but to part with their cat. There is no good

reason whatsoever to force this unfortunate situation on an individual, except for speeding up the eradication of the nation's big cats. This is emotionally harmful to both the keeper and the animal. It is well known that many cats never completely adjust to having a new owner. Some cats become irascible and dangerous to handle when so separated from their owner. Should an animal have to needlessly suffer due to easily preventable circumstances beyond its control? There are also constitutional issues with this that will be addressed later in these comments.

Jumping ahead a bit, there is no stated provision in the proposed rules allow transporting the cat to an exempted facility that is out-of-state. This means that in the case of a forced move, if the state the owner is in does not have any suitable facility, there is no place for the cat to go. The cat must then be destroyed. This is egregious and reprehensible, and must be corrected in any final rule (preferably by allowing interstate household moves). Killing your 'best friend' shouldn't have to be part of an interstate move.

Last, but not least, the proposed rules prohibit taking your cat to an out-of-state veterinarian. Vets with big cat skills are uncommon. It may very well be that the vet you use, or a specialist vet for a serious problem, is out-of-state. For some procedures, physically transporting the cat to the vet is required. The proposed rules make it impossible to get the best health care for your cat in these circumstances. This can cause needless suffering and even death for the cat. Of course, this will also cause emotional anguish for the keeper, as well.

LIONS AND TIGERS ON THE BLACK MARKET?

Despite the best efforts of the government, people are going to want to own big cats. There is nothing illegal or criminal about this desire. People who want to legally and responsibly care for these animals-- in general, the best kind of keepers-- will have the hardest time obtaining good animals. On the other hand, these proposed rules will do nothing to stop those who shouldn't have these cats. They tend to ignore the rules. These owners are generally the ones who create problems for everyone else. So, the CWSA and its resulting rules only punish good owners.

If the population destruction of the big cats gets bad enough, a 'legitimate' black market will appear. People who care enough about the survival of these animals will find ways to get them across state lines. Although it is quite a challenge to hide a big cat, it can and has been done. Although people participating in this sort of network may have the moral high ground, the cats' care will suffer, as they will not have ready access to veterinary services. Furthermore, 'stealth' enclosures for these animals imply compromises on the amount of open space the cat will receive. The black market might represent the cats' last hope for survival, but it is not a desirable state of affairs. Delaying implementation of these proposed rules, or enforcing them only for exceptional situations will go a long way to alleviating this potential problem.

FELINE GENOCIDE?

From the RIN:

Propagating or breeding with the prohibited wildlife species is specifically prohibited for any wildlife sanctuary in order for that sanctuary to qualify for the 'accredited wildlife sanctuary' exemption provided in the CWSA. 'Propagation' or 'breeding' is generally understood to mean the exchange of gametes between sexually reproducing organisms. However, for the purpose of the CWSA, it means the production of offspring or the attempt to produce, or the possibility of the production of offspring of the prohibited wildlife species, by any means. Placing a male and female large cat in the same cage for any period of time may result in breeding and is considered propagation, whether actual production of offspring is intended or not. Since offspring can also be produced by artificial means, such as artificial insemination or cloning, these activities are also considered propagation.

It's interesting that such a detailed and comprehensive definition of 'reproduction' is needed here. This implies that it is the sense of the Fish and Wildlife Service that any reproduction (or appearance of reproduction) cannot be allowed under the proposed rules for 'accredited sanctuaries'.

Before addressing the second great problem of the CWSA, there is an interesting clause in the above paragraph that is not in keeping with responsible husbandry of these animals.

Some big cats, especially lions, are social animals. Prohibiting a male and female lion from being together in the same enclosure can be harmful to their well-being. As written, this RIN is implying that an accredited sanctuary cannot put the male and female of a cat species together for any reason. No exception is given for cats that have been neutered, spayed, vasectomized or otherwise rendered sterile. For social cats like lions, that have been together most of their lives, this is emotionally harmful. I have seen lions even living in adjacent enclosures get deathly sick when one of the other lions is removed. An exception must be added to these proposed rules that would allow cats to be kept together if one or both of them has been rendered unable to reproduce.

The provision requiring cats of opposite sex to be in separate enclosures may result in substantial construction costs for existing sanctuaries who currently keep opposite-sex cats together (who have otherwise been rendered incapable of reproduction). It will invariably result in these cats also having less enclosure space, as subdividing an existing enclosure may be the only practical way to comply with these rules. Some facilities may have to acquire additional land on which to build enclosures to comply with this provision. This can be costly, and in some cases, impractical.

The cloning clause should be clarified to allow sanctuaries to place tissue samples of their cats into cryogenic storage facilities (sometimes called 'frozen zoos') for possible cloning at a date well into the future. This is the least that can be done to ensure that future generations will be able to appreciate and enjoy these animals. Do note that the present cloning technology is not good enough to allow for routine cloning. It is not, and will not soon be, a substitute for traditional breeding. Present-day

breeding is still required to conserve and propagate these species.

The biggest problem with CWSA, and these proposed rules, is the ‘compartmentalization’ of populations of big cats it will cause. And, this is no accident. The people behind the CWSA realize that if you compartmentalize these cats, you will make it easier to eliminate them by passing ownership ban laws on a state-by-state basis. Furthermore, even if the ownership of these animals is not ultimately banned, it will be increasingly difficult to get genetically fresh blood into a population isolated in a given state. This will result in inbreeding, and eventually the species will no longer be viable to survive. This is tantamount to legislated genocide.

In order for a species of animal to survive, it must be able to freely interbreed with others of its kind. The ability to freely breed with a large population of others of its species ensures that a continual genetic mixing will occur among this population. Strong traits will succeed, weak one will eventually be eliminated from that species’ gene pool. This state and process is called ‘genetic diversity’.

There is disagreement to what the minimum number of animals is needed to maintain a viable captive population indefinitely. The numbers range from about 500 to about 2,500. The larger the pool, the less careful one has to be as to whom you breed your animal with. As the pool gets smaller and smaller, managed breeding is necessary to maintain genetic diversity.

The AZA is trying to maintain genetic diversity with even smaller numbers of animals, in their Species Survival Plans (SSP’s.) They are already finding out they are not always working. The pool of animals they have to work with is typically considerably smaller than even the 500 mentioned above. And, animals frequently die when they are transported between zoos for the managed breeding program that is part of the SSP. It is my opinion that many of the species in SSP’s are doomed unless they expand their genetic base. To do that, they will eventually need to turn to non-AZA facilities and the private owners.

Now, that genetic diversity and compartmentalization have been defined, the state of the big cats in the wild shall be considered.

Virtually all species of big cat covered by the CWSA are in trouble in the wild. Consider a couple of these cases:

The tiger, the most commonly held big cat, is disappearing rapidly in the wild. Several populations of tigers, namely the South China tiger, the Siberian (or Amur) tiger and the Sumatran tiger are on the brink of extinction^{xxiii}. The Bengal tiger, recently thought to have a wild population of 4,500, is now being estimated to be as low as 1,500. The tiger has disappeared entirely in some parks^{xxiv}. The tiger is highly desired for its components for use in traditional Chinese medicine. Hardly a month goes by when there isn’t a bust made of illegal tiger parts going into China or Tibet. Although some progress is being made to staunch this flow, it will continue to be a problem until alternatives for tiger can be

found for traditional Chinese medicine. At the rate the tiger is disappearing in the wild, it could well be gone in as little as ten years.

The African lion is the only big cat that is currently not listed as endangered. However, the lion is in serious trouble as well. Unlike the tiger, where poaching is its greatest enemy, the lion is succumbing to habitat destruction and human disease. Wild lions are very sensitive to certain diseases. For example, back in 1997, canine distemper wiped out a third of East Africa's lions. This included lions in such spectacular places as Serengeti National Park and the Ngorongoro Crater. Although this problem was eventually brought under control and the lion population restored, it demonstrates how fragile a single species can be. Although currently stable in East Africa, the lion is in trouble in South Africa. As a result of the AIDS epidemic there, tuberculosis is running rampant. The Cape buffalo have caught it from humans. Lions eat the buffalo and contract tuberculosis from eating them. The buffalo are apparently able to tolerate the tuberculosis, but it greatly weakens lions.^{xxv} Unlike the canine distemper problem mentioned earlier, there is no easy way to get rid of the tuberculosis. The general weakening of the lion population is also making them susceptible to FIV, the feline version of AIDS. Although many lions carry FIV, it seldom affects them until another condition compromises their immune systems. (In fact, the lion's ability to carry but resist FIV may hold a clue to managing HIV positive humans. Wiping out the lion could also wipe out an important hope for people who are HIV positive.) These two diseases together have doubly doomed the lion. In fact, I recently had a chance to talk to a person who runs a large game ranch in South Africa. He told me that there are now more lions on game ranches in South Africa than there are in the wild. To make matters worse, South Africa has just passed its own version of the CWSA, which has the potential to cut down on captive lion breeding.

It's interesting that researchers are just discovering that lions and tigers are the most ancient (and therefore successful) of all the cats. Wouldn't it be a tragedy to all of us who dwell on this planet if we allowed these important animals to be wiped out because of some extremist groups and/or an almost unmeasurable improvement in safety?

The United States is blessed with a substantial captive big cat population. A recent Freedom of Information Act request from the USDA found that there are some 4,935 big cats registered in APHIS-licensed facilities. Florida leads the way, with 849 cats listed. Texas is second with 561 and Indiana is third with 319. The numbers drop rapidly below these three states. The exact species mix is not specified, but it is most likely tigers/lions/leopards/jaguars/cheetahs/snow leopards, with tigers predominating. Although this might sound encouraging from a genetic diversity standpoint, it is not all good news.

Animal rights people have managed to get a private ownership ban passed in Texas. The way the law is worded, it compartmentalizes the state by its counties. Although this law mainly (and unfortunately) targets the 'evil private owners', it also affects APHIS-exempted facilities by placing burdensome requirements on them, like almost unobtainable amounts of liability insurance. This has already negatively affected big cat populations in this state.

Florida, which has to this point been an exotic animal-friendly state, is now considering regulatory legislation that may be the first step towards species bans.

Kentucky has just passed rules that makes owning a big cat for just about any reason illegal. APHIS-licensed facilities and sanctuaries are not exempted, except for AZA zoos and the principal zoo of a community. This is the kind of ban that the animal rights people are pushing for the hardest. I know of a facility in Kentucky that has been hit particularly hard because of these rules. This person is not only slowly losing his cats (because they can't be replaced when they die), he has essentially lost his business because of these rules.

Minnesota has also passed ownership bans on big cats that prevents future private ownership, and places substantial restrictions on already existing APHIS-licensed facilities. This law passed in 2004. True to form of the animal rights people, they are attempting this year to incrementally add to the ban to put an even tighter regulatory squeeze on APHIS-licensed facilities.

Kansas is currently considering strict regulation or ban laws. In the introduction to the regulatory process, it states that the CWSA behooves the state to revisit it's exotic animal policies.^{xxvi} So, the CWSA is already damaging existing populations of big cats, even though the rules are not officially in force.

In states that have banned, many people are being forced to put their big cats in sanctuaries because they can't legally do much else with them. Now, let's imagine a scenario where a large percentage of the nation's big cat population is in these sanctuaries. The way the CWSA is written, and the way that the proposed rules read, the 'accredited sanctuaries' can serve as little more as a 'concentration camp' for these displaced animals.

Now that a lot of the cats are in these sanctuaries (part of the animal rights plan to eliminate captive big cats), they can't be bred, and your proposed rules make that very clear. This is wrong. With the gene pools for all the big cat species being squeezed from all sides, they need all the help they can get. These sanctuary collections represent a genetic goldmine that can no longer be tapped via these proposed rules.

These proposed rules must be modified to allow accredited sanctuaries to participate in managed captive breeding programs. (And not just the AZA's SSP program. Others are working on managed captive breeding programs.)^{xxvii} Despite some sanctuaries' (mostly unfounded) cries of 'horrible private owners', the larger sanctuaries especially, have a few cats that are prime specimens of their species (that probably came from good homes of people who were forced to move, etc.). These animals should be allowed to pass on their genes. Anything else is the crime of genocide.

Conservation breeding does not imply breeding on a massive scale. The goal of conservation breeding

is to maintain a stable, genetically diverse base of animals that are bred regularly, but not at a level that produces a great surplus of animals. For example, a big sanctuary with 20 lions might breed one pair every other year. The cubs from this breeding would be shared with other sanctuaries, and the sanctuary with the breeding pair would receive cubs for use in future breeding. would receive cubs from other breeding programs. This would all be managed in a manner similar to an AZA SSP but hopefully with a much larger base of animals to breed.

It could be argued that nothing needs to be done because APHIS-licensed facilities in a non-ban state can still breed and sell to unlicensed people within the state. This they can do, but even then, they have to have a constantly changing base of cats to help ensure that their state will have an indefinitely healthy cat population. And apparently, the FWS is not going to allow APHIS-licensed facilities to 'broker' these animals on behalf of the private owner. (Brokering 'violates the spirit of the law') As laws at various levels make it tougher and tougher to do legitimate business in big cats, these APHIS-licensed sources may disappear, leaving the private owners to deal with their compartmentalized populations of ever-more inbred cats.

The AZA zoos will not do business with private owners except under unusual circumstances. Until there is a seachange of thought in the AZA, they have no interest in seeing an alternative healthy population of big cats, as it hurts their business and their image.

As for my personal interests, if I am able to eventually get the lions I want, I would like to be able to participate in conservation breeding. (Responsible conservation breeding occurs at a level below what would be considered for APHIS purposes, 'commercial breeding'.) The CWSA and these proposed rules make that very difficult. Essentially, I am being told by the federal government what kind of animals I can and can't enjoy a bond with.

A final thought on genetic diversity. Imagine, if you will, the pre-CWSA, pre-ban-frenzy population of cats in this country (or around the world) as a forest. Each cat represents a growing branch on a tree (Its forebears being the branch or trunk that supports this branch). Now, imagine going into this forest and cutting off a branch. Liken this to a big cat who dies without being able to pass on it's genes to a new generation through reproduction. Cutting one branch in a big forest has little effect. Now, imagine this forest thinned out to just scattered clumps of trees. Now, cutting off a branch (or not allowing a worthy cat to reproduce) has a much more significant effect. The more you thin out the forest, the more effect subsequent branch-cutting will have.

Extend this analogy a bit farther. Cut off the branch, and it will never grow again. Likewise, each time you do not allow a cat to reproduce in it's lifetime, not only does that cat die, but so does it's genes. Whatever genetic value that particular animal has is now gone forever. With the dwindling cat population, prohibiting reproduction on a large scale is absolutely disastrous to the future of these beautiful and noble animals. Extinction is what the backers of the CWSA want. You, the Fish and Wildlife Service, tasked with enforcing the Endangered Species Act, must not allow this to happen.

Especially with animals listed as endangered, such as the tiger. In short, the CWSA violates in spirit, the ESA.

To sum up this section, no animal can survive unless it is allowed to breed, and on a widespread level. With the wild populations of these cats quickly disappearing, the only hope for long-term survival of these animals is captive husbandry. The CWSA and the resultant rules were designed to severely interfere with this process where it exists at the grassroots levels. (for instance, it was cheetah keepers, not scientists who figured out how to get cheetahs to breed. The CWSA is saying 'we don't need the 'grassroots' private owner. We will force things to increasingly large (and bureaucratic) institutions where all problems are solved (or not solved) by science'.) Compartmentalize the big cat population, encourage bans at the State level, and soon society is rid of (forever!) another 'exploited species of animal'.

The CWSA and its resultant rules are very much like like WWII Germany and Hitler. Declare the big cats 'hopelessly dangerous and undesirable', funnel them into sanctuary 'concentration camps' and let time do the work of 'genocide'. I urge the Fish and Wildlife Service to delay implementation of these proposed rules as long as possible, and then enforce them only when there is truly egregious violations. And, make provisions for conservation breeding. These rules will literally determine if the big cats will survive for future generations to appreciate and enjoy, or not. And, not just in the US but around the world. The captive big cat population here is the largest in the world. It is our hedge against extinction in the wild. Doing anything to threaten their existence all but ensures worldwide extinction.

CONSTITUTIONAL ISSUES

The CWSA and these proposed rules do involve some constitutional issues, and I believe that these will be the 'weak points' that eventually get this law thrown out, along with it's agency rules.

The first amendment of the Constitution reads:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

There are a couple of first amendment issues with the CWSA and these proposed rules.

The animal rights movement functions very much like a religion. They are passionately devoted to their ways, even to the point of using violence to get what they want. They are above the law; they think nothing of deception. Since they obviously want to be a religion, they must learn to behave like one. The constitution guarantees religious freedom in this country. That means they can practice non-animal-owning and vegan lifestyles. They can hold meetings and services and rituals. They can even try to 'proselytize' you to their beliefs. But what they cannot do is influence government to the point that the government adopts their policies and forces them on everyone else. The courts have upheld this

time and time again. The CWSA could well be unconstitutional because it is essentially an adoption of part of the animal rights 'religion'. As has been shown in these comments, the safety issue they claim is such a big problem, is completely insignificant. They don't talk about promoting captive breeding anywhere in the law because it is their goal to abolish it. They don't want anyone to experience the richness of a bond with these incredible creatures (or any other animal, for that matter). They don't want you to be able to move your companion big cat with you when you move because they want it dead and forgotten about.

The second concern is kind of the opposite of the first concern. This law interferes with my (or any big cat keeper's) free practice of religion.

It has been observed for some time now, that there is something very special about the human-animal bond^{xxviii} I feel the right to bond with the animal of my choice is part of my religious expression. It is a fundamental part of what makes us human. The CWSA and these proposed rules interfere with this expression in two ways: 1.) It makes it increasingly difficult to get the cat I want, at the time I am ready for it. (I have turned down three offers of free lions in the last six months (the lions being available because of a ban law in another state) because I am not yet ready to care for my own lions here. By the time I am ready, I will be unable to obtain them. And these cats may possibly die where they are.) 2.) When I do get my cats, and then are forced to move, I am forced to give up my cats, cats with which I will have built a bond of a profound and spiritual nature. I believe this is a direct violation of my freedom of religious practice.

Indeed, Native Americans worship various animals; their freedom to do so is protected. (There is also evidence they were well on their way to domesticating the cougar before we disrupted their society.) They are also able to procure parts of some animals that are significant in their religious practices, that are prohibited for anyone else to own. Why is any other animal lover any different? We should have the freedom to responsibly own the animal of our choice, be it a dog, an eagle or a lion.

REPLY COMMENTS REQUESTED

I also respectfully request that the Fish and Wildlife Service provide a period of 'reply comments', so that comments that have been submitted in response to this RIN can be addressed.

SOME COMMENTS ON THE 'REQUIRED DETERMINATIONS'

This proposed rule will not have an annual economic effect of \$100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required.

But it will have a severely detrimental effect on the US (and eventually the worldwide) population of big cats. A value cannot possibly be put on the damage to, or the loss of, these species. Their value to

mankind is worth more than all the money in the world.

It may also have a significant economic impact on existing sanctuaries who wish to come into compliance with the 'no propagation' provision in these proposed rules. They may have to spend a considerable amount of money modifying existing caging, building new caging, or acquiring land to place new caging on. These costs are not trivial, as caging for these species must be quite strong. Furthermore, most sanctuaries operate on tight budgets, and this could have a significantly adverse economic effect on these sanctuaries.

The CWSA will prohibit the import, export, transport, sale, receipt, acquisition or purchase in interstate or foreign commerce, of African lions and cougars by individuals or businesses that would not qualify for one of the exemptions contained in the CWSA. These restrictions are not expected to have a substantial economic effect on this segment of the live animal industry. However, we ask the public for data on these individuals or small businesses to enable us to determine the impact of this proposed rule on those individuals or small businesses.

These proposed rules must not be allowed to interfere with the importation or exportation or movement of these species any more than it would with someone holding a CBW permit to move endangered species. These animals have as much of a right to exist and propagate as the endangered animals do. Lions are not nearly as commonly held by private owners as are tigers. (A good estimate is that only 20 percent of all captive big cats in the US are lions.) Greater numbers of captive lions are needed to ensure future survival of the species.

Cougars are surprisingly common in the private sector. They are relatively easy to work with, and are a good candidate for future domestication. Indeed, some even have cougars as 'housepets'. A look at the big cat incidents data will show cougars cause far fewer incidents than the bigger cats, despite their prevalence. (The opposite is true outside the US, where cougars are often held as exhibit animals rather than human companions.) Including these animals in the CWSA and these proposed rules is a mistake. They should have the minimum restrictions placed on their interstate movement as possible.

Generally speaking, the most common hybrids resulting from the breeding of any combination of the prohibited wildlife species would be the liger or the tiglon. Numerous websites promote the existence of these hybrids, suggesting that there may be some demand for these animals for use as pets or for display purposes. We do not maintain domestic trade data on these hybrids; therefore, it is difficult to estimate the impact the CWSA will have on this segment of the live animal industry. However, we ask the public for data on these small businesses to enable us to determine the impact of this proposed rule on those small businesses.

The facility where I am a volunteer cat keeper, holds a liger. They are amazing animals that even as a hybrid, justify their own existence. The liger brings more people in our front door than any other animal we have. (And, we easily qualify as a small business.) Nothing in these proposed rules should make it any more difficult to move and obtain hybrid cats than it would be for non-hybrid cats.

The costs for meeting APHIS compliance requirements under the AWA are difficult to quantify because these costs are extremely variable, depending on the nature of the business of the individual who seeks to become licensed or registered. Application costs will vary, depending on the nature of the business of the individual. Licenses issued by APHIS under the AWA must be renewed every year with a standard application fee of \$10.00. Additional application costs are based upon the nature of the business of the individual and the size of that business. Additional application costs for animal exhibitors can range from \$30.00 to \$300.00 per year, depending on the number of animals on exhibit. Additional application costs for animal dealers can range from \$30.00 to \$500.00 per year, depending on the anticipated annual income of the business.

In addition to application fees, the costs for meeting APHIS compliance requirements can vary, depending on the current facilities maintained by the individual and to what degree those facilities meet those requirements. Construction costs for new facilities may also need to be increased in order to achieve compliance.

There are some problems with becoming APHIS-compliant. First of all, there is additional costs involved in building an APHIS-compliant facility. There are a number of equally valid ways to build facilities for the big cats. They all might provide an excellent level of animal care. but not all of them would meet APHIS requirements. Most of these additional costs deal with the need for extra infrastructure required to deal with APHIS standards for food preparation, waste disposal, etc. Also, considerable extra recordkeeping is required of an APHIS-licensed facility. Provisions must be made for that recordkeeping, which could include additional computers, journal systems, etc. This can also mean additional manpower requirements.

The biggest problem with APHIS compliance though, is the requirement to commercially breed or exhibit. These kinds of activities change one from being an enthusiast into being a business owner. As a business, there are substantial additional costs involved, including business permits, liability insurance, having to locate in a commercially zoned area, higher taxes, etc. This is a major limitation for potential cat owners in the future. It may also reduce the quality of the environment in the place the cats live by having more people around, needing to frequently move the cat, etc.

It has been said that 9 out of every 10 businesses fail in the first ten years. Since big cats can easily live up to 20 years, a business failure creates a serious problem for the cat's well being. The CWSA and its

resulting rules only make matters worse by making APHIS licensing about the only viable option for anyone who wants to do anything beyond collect a bunch of cats and watch them die without any hope of reproducing. (Essentially what an 'accredited' sanctuary is under these proposed rules.)

In addition, 19 States prohibit the private possession of large cats, and 16 States have a partial ban on possession of large cats or require permits for their possession. Therefore, the CWSA does not create inconsistencies with these State's restrictions, but rather supports them.

This supporting of state-level bans is not a desirable thing. In fact, as pointed out earlier in these comments, bans are now being enacted at an increasing rate. The CWSA is already doing what it's designed to do-- wipe out the privately owned big cat population-- before it has even been enabled through a rulemaking. Simply put, the US does need these proposed rules or restrictions.

This proposed rule will not raise novel legal or policy issues because it is based upon Congress's passage of the CWSA, which reflects a heightened concern for public safety resulting from the increased trade in the prohibited wildlife species for use as pets and the increased risk of danger to members of the public when given opportunities for direct contact with the prohibited wildlife species.

The CWSA and these proposed rules do indeed raise a novel issue: This is the first time the Lacey act has been used to make illegal an activity that is currently legal. The Lacey act was originally intended to be a tool to extend the ability to prosecute already illegal practices. The Lacey act has already been struck down and resurrected. The CWSA and its resulting rules represent a dangerous new direction the Federal government is headed in; one that will almost certainly land the Lacey act (or the CWSA) back into the courts. If this is not enough, there is now a move afoot to add all primates to the CWSA, a move as egregious, if not more egregious, than the original CWSA for big cats.

Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

The CWSA and its resulting rules do have an adverse effect on productivity and innovation in that it stifles the ability of the private owner who desires to work with big cats, to obtain them. Without private owners having these animals in their care, innovative new ways of caring for them will be much slower to develop. In the environment of nurture provided by private owners, these animals can be happier, healthier, reproduce more successfully, and live longer lives. This kind of one-on-one care is rarely provided in larger facilities, including the large zoos. What is learned in the facilities of a responsible private owner can later be passed on to other, larger facilities to improve their husbandry practices. This has historically happened. With these proposed rules, you will see little of it in the

future.^{xxix}

This proposed rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property.

These proposed rules may not result in a 'taking' as defined in EO12630, but it does result in some indirect taking. First of all, it may result in a taking if a person, as a result of an involuntary move to another state, is forced to give up their cats. It is also a taking of a very basic kind, in that it partially takes away our inherent (by human nature) right to responsibly own and bond to the animals of our choice. Ultimately, it is a taking from all mankind of these noble and magnificent animals. The goal of the CWSA's framers is eradication of the big cats from our society, which will also lead to, as discussed earlier, extinction in the wild.

These rules may also require the alteration, at owners' expense, of caging in existing sanctuaries to enable them to comply with the 'no propagation' aspect of these proposed rules. This is a taking of their usually meager resources.

Though interstate sale of large cat specimens is prohibited, the impact of this prohibition should be minimal because intrastate sales are not prohibited.

The impact of this prohibition will be substantial, because genetically viable animals will have a much harder time crossing state lines. Provided the CWSA-driven bans do not visit a state first, the cat population in that state will become increasingly isolated and inbred. The net effect is to render the cat population unfit to survive and propagate. This is the real intent of this law and its resulting rules, not conservation or safety.

The total estimated annual burden for complying with this proposed recordkeeping requirement should be 750 hours or less. We estimate that the average wage of individuals likely to be providing these documents is \$20.00 per hour. Therefore, the total estimated annual dollar value of this proposed recordkeeping requirement is \$15,000.00.

There are small sanctuaries out there, that a \$15,000 addition to their operating budget will cripple. (That's \$1,250 extra a month. That's like a second mortgage payment!) Many sanctuaries that care well for their animals still scrimp and scratch for every penny they can get. This is an unfair and unnecessary burden on the small sanctuaries.

2.2 (g) and 6.3 (D). This proposed rule does not amount to a major Federal action significantly affecting the quality of the human

environment. An environmental impact statement/evaluation is not required. This proposed rule is categorically excluded from further National Environmental Policy Act requirements, under part 516 of the Departmental Manual, Chapter 2, Appendix 1.10.

These proposed rules most definitely have an effect on the human environment. It makes experiencing the enjoyment of a caring bond with a big cat that much more difficult. In the case of a person having to make a forced move, it permanently severs this bond. This results in a substantial negative change to the human environment. (As well as the animal's environment.)

These proposed rules also affect the general public environment in that, as time goes by and the genetics of the big cats get weaker and weaker, they will disappear even from exempted facilities. That is what this law is really designed to do. The public will then be unable to enjoy seeing living specimens of these magnificent creatures.

Under the President's memorandum of April 29, 1994, ``Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no adverse effects. Individual tribal members must meet the same regulatory requirements as other individuals who import, export, buy, sell, transport, receive, or acquire the prohibited wildlife species in interstate or foreign commerce.

Historic evidence suggests that native Americans may have been close to domesticating the cougar. And considering that the native Americans include animals as part of their religious expression, they should not have to be subject to these rules when it comes to native animal species (in this case, the cougar). For that matter, everyone who works closely with big cats to the extent they form bonds with them should be exempt, because it is a part of their religious expression. The more they are studied, the more that enlightened researchers know our bond with animals is of a spiritual nature, and should not be legally tampered with.

CONCLUSION

There is nothing at all good or redeeming about the CWSA. This is a law that was pushed through congress by animal rights people, and they are the only ones that benefit (by furthering their goal of removing animals from our environment in any way, shape or form). As demonstrated in these comments, this law and it's resulting rules have nothing whatsoever to do with conservation. Their effect on public safety is infinitesimal. Their potential to harm the species it regulates is significant. And, it has the potential to cause emotional harm to both cat and keeper. Last, but not least, these rules stand on shaky constitutional ground. Although these proposed rules do not violate the letter of the ESA, they certainly violate it's spirit. I do understand that the FWS is forced to write these rules based on a congressional mandate. But as I see it, the FWS does have a little wiggle room in the case of

morally reprehensible legislation, such as the CWSA. So, here are the recommendations I will make:

1. Provide an extension of the comment period so that others may be able to knowledgeably comment on these rules.
2. Provide a period of reply comments so that citizens can reply to the comments originally filed.
3. Delay implementation of these rules for as long as possible, preferably forever.
4. If the rules have to be implemented, they should have the following changes:
 - a. People should be able to move animals they own over state lines as part of a household move.
 - b. People should be allowed to transport their animals across state lines for the purposes of veterinary care.
 - c. If it becomes necessary, people should be able to transport their animals over state lines to give them to an APHIS-licensed facility or a sanctuary accredited under these proposed rules.
 - d. Permitted sanctuaries should be able to put male and female cats together in the same enclosure, provided that enough animals been rendered incapable of reproduction, that any propagation will not occur. (Any animal with conservation value, should never have to be rendered sterile for regulatory compliance purposes.)
 - e. Nothing in these rules should prohibit the placement of tissue samples of regulated animals in long-term cryogenic storage facilities (or a future technology that accomplishes the same thing) for the purposes of propagation in the distant future.
 - f. Permitted sanctuaries should be able to participate in managed conservation breeding programs.
 - g. Native Americans should be permitted to keep cougars and move them across state lines, if their religious practice so dictates.
5. In general, these regulations should be the absolute minimum necessary to just meet the congressional mandate.
6. Do not enforce these rules any more than is absolutely necessary. Do keep in mind these rules are meant to harm, and not to help anyone but the extremist animal rights people.

EXTINCTION IS FOREVER!

Respectfully submitted,

“For the lions”

Tim Stoffel

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February 28th, 2006

- i The Captive Primate Safety Act, as before Congress:
 HR 1329 <http://thomas.loc.gov/cgi-bin/query/D?c109:2:./temp/~c109cGfm39::>
 S 1509 <http://thomas.loc.gov/cgi-bin/query/D?c109:1:./temp/~c109cGfm39::>
- ii <http://www.cnn.com/2005/US/08/24/schuster.column/>
- iii These stories are from coverage of the SHAC! Trial. They are downright scary!
<http://www.newsday.com/news/local/wire/newjersey/ny-bc-nj--animalextrmists0215feb15,0,3534528.story?coll=ny-region-apnewjersey>
<http://www.newsday.com/news/local/wire/newjersey/ny-bc-nj--animalextrmists0219feb19,0,5369544.story?coll=ny-region-apnewjersey>
- iv Note especially point three here. http://www.animalscam.com/peta_7things.cfm
- v A couple of interesting links about the merger of HSUS and FFA:

http://www.hsus.org/press_and_publications/press_releases/the_humane_society_of_the_united_states_and_the_fund_for_animals_join_forces.html

<http://www.nppc.org/wm/show.php?id=392&c=3>

<http://www.freehunters.org/article.aspx?id=560>

- vi Extensive information on the major animal rights groups:

<http://www.animalscam.com>

Even more info can be found here, at Sportsmen and Animal Owner's Voting Alliance:

<http://saova.org/Links.htm>

Here's an interesting article that explores the animal rights mindset:

<http://www.sfgate.com/cgi-bin/article.cgi?file=/chronicle/archive/2004/03/11/EDG305HIS11.DTL>

- vii Here's a link that shows John Ensign's 'gift' from HumaneUSA PAC:

<http://www.opensecrets.org/pacs/memberprofile.asp?cid=N00006619&cycle=2006>

Only Mr. Ensign and Rick Santorum (sponsor of S1139, the PAWS act, that makes breeding of cats and dogs a Federal issue) received the maximum allowable gift of \$5,000. (If you don't see the donation listed in the link above, look under "Ideology/single issue" and then under "Misc issues")

- viii From comments given by Edward Dominquez of the USFWS, at the 2006 Phoenix Exotic Wildlife Association conference. A video recording of this conference is available from www.phoenixexotics.org
- ix Here is the "20 year plan" of Carole Baskin of Big Cat Rescue, to eradicate all the big cats in the US.
<http://www.bigcatrescue.org/20yearplan.htm>
- x From comments made at the Phoenix Exotic Animal Owner's Association annual meeting, 2003, 2004 and 2006. Video recordings of these conferences can be purchased at www.phoenixexotics.org
- xi Information on the recent increase in deaths from wild lions in Tanzania:
 Thursday, August 18, 2005; Posted: 12:44 p.m. EDT (16:44 GMT)
 ARUSHA, Tanzania (AP) -- Hungry lions pursuing wild pigs into human settlements are killing people three times as often as they did 15 years ago in Tanzania, according to a survey.
 The development has taken a toll on lions as villagers and wildlife officials hunt down man-eating lions, according to the report released Wednesday by the science journal Nature.
 The human-lion conflict is a product of poverty, growth in human and lion populations and decline in traditional prey for the big cats, according to research by the University of Minnesota's Lion Research Center and Tanzania's Wildlife Research Institute.
 Some Tanzanians have set up homes near wildlife conservation areas and others farm in corridors used by wild animals to move between protected areas and water sources, Zakia Meghji, Tanzania's minister for tourism and natural

resources, said Thursday.

"Lions that often attack humans are old animals that are unable to stay in the pride. They end up targeting humans who are a far more easier prey than wildlife," Meghji added.

Villagers, who cannot afford to buy fences, often sleep in their fields to guard their crops against nocturnal pests such as wild pigs. These farmers fall prey to lions who follow the pigs, according to the report.

Since 1990, lions have killed more than 563 people and injured at least 308, according to report, with fatal attacks increasing markedly over time.

In the past, lions have typically hunted wildebeest rather than wild pigs.

But as Tanzania's population has grown, traditional prey numbers have declined.

Farmers should dig trenches around their fields to keep away the pigs, the researchers advised.

This would also help conserve the number of lions in Tanzania, an East African nation that is home to the largest population of the big cats in the world.

Meghji, said, though, that lions were increasing.

"There has been a definite increase in the population of lions because we have effectively controlled poaching by giving 25 percent of wildlife revenues to local communities that now see the benefit of protecting the animals," Meghji said.

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xii <http://www.circuses.com/attacks.asp>

This page has both US and international statistics for big cat deaths to humans. Internationally, 46 deaths were reported in the years 1990-2004. Of those, 4 were suicide or deliberate acts by humans, leaving 42 legitimate cases. That works out on average to be three deaths per year. Of those, 64 percent (27) were trainers, keepers, or otherwise worked closely with the cats. 14 percent (6) were members of the general public at large. These figures are consistent with the US, but our safety to the general public is considerably better. The worldwide average death rate from captive big cats, including the US, is therefore four people per year.

xiii Here are statistics from some of the animal rights groups.

http://www.cwopc.org/education/API_Dangers_of_Keeping.html API's fact sheet: 6,000-7,000 tigers alone.

<http://www.cwopc.org/education/download/BigCatFacts.pdf> CWAPC's fact sheet. Remember, they are the ones behind the CWSA

xiv You can learn more about the Feline Conservation Federation and their husbandry program at www.thefcf.org

xv <http://www.circuses.com/attacks.asp>

xvi <http://www.bls.gov/iif/oshwc/cfoi/cftb0186.pdf> Data of interest is on page 8. All occupational data is from the Department of Labor, Bureau of Labor Statistics.

xvii The 2005 fatality rate for coal mining is probably somewhere on the BLS site, but I didn't find it. It is reported commonly in the press as 22. With the big incidents at the beginning of the year, it is likely to be much higher in 2006.

<http://www.bls.gov/iif/oshwc/cfoi/cftb0196.pdf> Workplace fatalities 2004 .

<http://www.bls.gov/iif/oshwc/cfoi/cftb0187.pdf> Workplace fatalities 2003.

<http://www.bls.gov/iif/oshwc/cfoi/cftb0186.pdf> Workplace fatalities 1992-2002

xviii Data for skiing accidents.

http://www.boston.com/sports/other_sports/skiing/articles/2004/01/15/safety_in_skiing_threatened_by_overreacting/

<http://www.lasvegassun.com/sunbin/stories/nevada/2006/feb/11/021110577.html>

xix Data for bee sting deaths:

<http://www.sanfordherald.com/articles/2005/07/02/news/news08.txt>

- xx Data on deaths from lightning:
http://www.lightningsafety.com/nlsi_lls/fatalities_us.html
- xxi Data on child abuse:
<http://pediatrics.aappublications.org/cgi/content/full/102/4/1000>
<http://www.capcsac.org/statistics/>
- xxii Here are some of my favorite books talking about the positive and/or spiritual aspect of animal ownership:
‘The Souls of Animals’, Gary Kowalski, ISBN1-883478-21-9 (Yes, that’s a cougar on the cover!)
‘The Healing Power of Pets’, Dr. Mary Becker and Danelle Morton, ISBN 0-7868-8691-9
‘Angel Animals - Exploring our Spiritual Connection with Animals’, Allen and Linda Anderson, ISBN 0-452-28072-9
‘Love, Miracles and Animal Healing’, Allen M. Schoen DVM, and Pam Proctor, ISBN0-684-82273-3
‘God’s Messengers: What Animals Teach Us About the Divine’, Allen and Linda Anderson, ISBN 1-57731-246-5
- xxiii Tiger subspecies and population data:
<http://www.savethetigerfund.org/AllAboutTigers/Subspecies/index.htm>
- xxiv Bengal tigers in serious trouble in India:
<http://news.telegraph.co.uk/news/main.jhtml?xml=/news/2005/12/18/wtiger18.xml>
- xxv Here is a link to a number of articles about the tuberculosis problem among South African lions:
<http://www.corelight.org/lions/report.html>
- xxvi From notes for a meeting of the Kansas Department of Wildlife and Parks, October 28th, 2004
"Federal Legislation and State Law Jurisdiction Pertaining to Exotic Cat Ownership - Kevin Jones, Law Enforcement Division director, presented this report to the Commission (Exhibit N). The enactment of the Captive Wildlife Safety Act, an amendment to the federal Lacey Act, has prompted the review of the of the possession of large cats in the State of Kansas. Discussions have been held with the members of the Governor's Sub-cabinet on Natural Resources, as well as select representatives of the Kansas Department of Health and Environment and the Kansas Animal Health Department. All are in agreement that it would be wise to further regulate and control the possession of these large cats in the state. A small work group of department employees has made an initial review of the Wildlife and Parks regulations and suggested a possible course of action. This would include the rewriting, and possible revocation, of several existing regulations. The end result would broaden the list of animals from the six large cat species listed in the Captive Wildlife Safety Act to include bears, wolves and non-human primates, and provide for a time frame whereby the possession of these animals for simple personal pleasure would be prohibited. Provisions would be developed allowing the continued operation of zoos, and accredited public displays serving the public good, but would eliminate the possession of these animals merely as "pets". Recently the Secretary was contacted by the Secretary of State, who after a brief meeting, requested a meeting of effected interests to further discuss ways to clarify and bring better control over this issue. A meeting is being scheduled among affected federal, state and local governments, legislators and private groups and individuals to further discuss the issue in an effort to find consensus toward resolution."
- xxvii Here is a link to one such program, the Species Enhancement Strategy (SES) program:
<http://www.geoffroycatses.org/>
It is my ultimate goal to start such a program for generic African lions.
- xxviii This paper examines the spiritual nature of our bond with animals, and why it is one of our most basic rights as humans.

<http://www.tigertouch.org/library/freedom.pdf>

xxix Brent Andrus, a prominent member of numerous private aviculture clubs, relates that the USDA had to turn to private parrot owners for technical assistance in raising Puerto Rican Amazon parrots for a captive release program. He also indicates that increasingly burdensome regulation, especially at the Federal level, is slowly forcing to give up his cherished hobby of aviculture. These comments were given at the 2006 conference of the Phoenix Exotic Wildlife Association. Video recordings of these conferences may be purchased from www.phoenixexotics.org