

Ivory Ban Fact Sheet

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On February 11, 2014, the Obama administration announced a “**National Strategy for Combating Wildlife Trafficking**” and a proposal to ban all U.S. commercial trade in elephant ivory. Two weeks later, the director of the U.S. Fish and Wildlife Service issued an order announcing the steps it would take to implement that ban.

While the goal of restricting illegal commerce in endangered species is laudable—hunters in America and around the world are second to no one in seeking protection and restoration of species such as elephants and rhinos—the effects of the ivory ban would be disastrous for American gun owners and sportsmen.

Ivory has been used in gun making for centuries, just as it has been used in fine furniture, jewelry, or musical instruments. Ivory is widely used in rifle and shotgun sights and sight inserts, and for ornamental inlays in rifle and shotgun stocks. Custom handguns—such as General George S. Patton’s famous revolvers—are also often fitted with ivory grips. [1] Ivory is also widely used in related accessories used by hunters and fishermen, such as knife handles, and handles for gun cleaning equipment and tools.

Sale of all of those items could be banned if the Obama administration’s proposal goes into effect as stated.

For decades, the United States has generally banned the commercial importation of African elephant ivory other than antique items more than 100 years old; it also bans the commercial export of all raw ivory and strictly regulates export of worked ivory. [2] However, legally imported ivory may be sold within the U.S., because the Fish and Wildlife Service has long presumed that most ivory in the U.S. was legally imported and that its sale in the U.S. would not increase poaching. [3]

But now, the FWS plans to revoke the current regulatory exception allowing commerce in lawfully imported elephant ivory within the U.S. [4] A White House fact sheet elaborates, stating that the administration’s new rule will “prohibit sales within a state unless the seller can demonstrate an item was lawfully imported prior to 1990 for African elephants and 1975 for Asian elephants, or under an exemption document.” [5]

At a February 26, 2014 hearing of the House Foreign Affairs Committee, U.S. Fish and Wildlife Service director Daniel M. Ashe confirmed that under the FWS’s policy to “end the legal commerce in ivory,” it will be illegal to sell any firearm or other item that contains any amount of ivory and that is less than 100 years old. Even for items at least 100 years old, the burden of proof would be on the seller to show that the ivory is old enough—a nearly impossible burden to carry, since even a firearm or other item more than 100 years old may have been restored with newer ivory parts. Meeting the FWS standards of proof would be challenging and expensive, as FWS will require evidence such as scientific testing, a “qualified appraisal,” or other “detailed history” information ranging from family photos to “ethnographic fieldwork.” [6]

Consider the following scenarios:

- A gun owner inherits, and wants to sell, a valuable antique rifle containing ivory parts. While the rifle is undoubtedly more than 100 years old, it also shows signs of more recent restoration. Will the owner be able to show that all of the ivory parts are more than 100 years old?
- A gunsmith is asked to repair a pre-World War II shotgun. To do so in the correct fashion for the period, he needs to replace the sight’s elephant ivory bead, which is only one-eighth of an inch in diameter. [7] Under the FWS proposal, he would be unable to obtain the raw materials to complete the repair unless a seller could show that this tiny amount of ivory was lawfully imported before 1990 (if it came from an African elephant)

or before 1975 (if it came from an Asian elephant).

- A dealer in fine firearms has an even more recent, and highly valuable, custom rifle that comes with custom-made matching accessories such as ivory-handled screwdrivers and ivory-inlaid oil bottles. [8] Under the FWS proposal, the dealer could not sell this work of art as a set unless he could show that the accessories were made from legally imported “grandfathered” ivory.

Most important, restricting trade in these items—all made of ivory from elephants taken long ago—will do nothing to further current anti-poaching efforts, or to reduce the illicit trade in Africa, Asia and elsewhere.

Fortunately, revocation of the exception for domestic sales will require a rule making process—which will give concerned citizens, and Congress, an opportunity to make their voices heard.

Rockhounds:

Do not forget about any Ivory Jewelry or Ivory Beads, they will fall under this law also. More information in the Code of federal Regulation may be found on the ALAA website <http://www.amlands.org/6652/index.html> after the listing of the current active legislation under “Affecting Rockhounding on Public Lands.” The American Federation of Mineralogical Societies (AFMS) has not allowed the displaying of Ivory in Lapidary Art at AFMS Shows for several years.

[1]See John Elliot, “The Known and Lesser Known Carry Guns of George S. Patton,” available at <http://www.guns.com/2011/06/17/the-known-and-lesser-known-carry-guns-of-george-s-patton/>.

[2]50 C.F.R. § 17.40(e). <http://www.ecfr.gov/cgi-bin/text-idx?SID=f58585240cb259895dc2d11a994e9201&node=50:2.0.1.1.1.4.1.3&rgn=div8>

[3]Id.; U.S. Fish and Wildlife Service, Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Certain Populations of the African Elephant and Revision of Special Rule, 56 Fed. Reg. 11392, 11398-400 (March 18, 1991).

[4]See U.S. Fish and Wildlife Service, Director’s Order No. 210, Feb. 25, 2014, available at <http://www.fws.gov/policy/do210.pdf> ; see also <http://www.fws.gov/international/pdf/directors-order-210-questions-and-answers.pdf>

[5]See <http://www.whitehouse.gov/the-press-office/2014/02/11/fact-sheet-national-strategy-combatting-wildlife-trafficking-commercial-b>

[6]See <http://www.fws.gov/international/pdf/directors-order-210-questions-and-answers.pdf>.

[7]See, e.g., <http://www.brownells.com/shotgun-parts/sights/front-sights/shotgun-custom-ivory-bead-front-sights-prod20914.aspx>.

[8]See, e.g., http://www.hallowellco.com/darwin_hensley%20win52.htm.