

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Parts 13 and 17

## Changes to the Special Rule Concerning the American Alligator

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The special rule concerning the American alligator, *Alligator mississippiensis*, found at § 17.42(a) is revised to allow the limited commercial export and import of lawfully taken American alligator hides and manufactured products from those hides in accordance with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter referred to as the Convention or by the acronym CITES). The sale of meat and other parts, except hides, from lawfully taken American alligators is allowed only in the State where the taking occurs, if these activities are authorized by State law and conducted in accordance with State laws and regulations. Foreign buyers, tanners, and fabricators who want to engage in their respective activities with hides of lawfully taken American alligators are required to obtain a buyer, tanner, or fabricator permit issued under the special rule. Foreign applicants for such permits are subject to more stringent applicant requirements than domestic applicants. Additional special conditions, including recordkeeping and reporting requirements, have been added to buyer, tanner, or fabricator permits. American alligators classified under § 17.11 as "in captivity wherever found" have been included within the coverage of the special rule. Permits to engage in any of the activities otherwise prohibited by the special rule are no longer available under § 17.52 for such alligators. Instead, a permit issued under authority of the special rule is available. Finally, the exception provided for taking American alligators in self-defense has been deleted in favor of the more liberal defense found in the Endangered Species Act of 1973, as amended (hereinafter referred to as the Act).

**DATES:** This rule is effective October 12, 1979.

**FOR FURTHER INFORMATION CONTACT:** Marshall L. Stinnett, Special Agent in Charge, Regulations and Penalties, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, (202) 343-9242, or Mr. Harold J. O'Connor,

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**SUPPLEMENTARY INFORMATION:****Background**

On October 2, 1978 (43 FR 45513), the U.S. Fish and Wildlife Service published proposed amendments to the special rule concerning the American alligator. Briefly, the Service proposed to amend the special rule (1) to simplify application procedures for those persons seeking buyer's, tanner's, or fabricator's permits, (2) to allow the sale of meat from lawfully taken alligators in the State where the taking occurs, and (3) to limit the applicability to American alligators of general permits pertaining to threatened wildlife issued under § 17.32. The Service would have allowed the import and export of American alligators only if those activities were consistent with the CITES.

Subsequently, on July 18, 1979 (44 FR 41894), the Service proposed to revise the special rule in response to changes affecting the domestic and international protection afforded the American alligator. Domestically, the number of parishes in Louisiana in which the American alligator could be lawfully taken from the wild was increased to twelve. See 44 FR 37131 (June 25, 1979); correction made 44 FR 42911 (July 20, 1979). Internationally, the American alligator's status under the CITES was changed to allow the resumption of international trade. See 44 FR 25480, (May 1, 1979).

The Service proposed a worldwide "closed system" wherein only permittees may engage in commercial activity with hides of lawfully taken American alligators until an engraved label provided by the Service is affixed by the fabricator to manufactured products made from those hides. Once marked, buyers and sellers would not be required to obtain a Federal permit to buy, sell, or transfer such marked products in interstate or foreign commerce. However, the export and import of lawfully taken American alligator hides and manufactured products from those hides would have to be conducted in accordance with the Convention.

Authorization to conduct a controlled harvest of American alligators in the State of Louisiana in those twelve parishes in which the American alligator is listed under § 17.11 as threatened—similarity of appearance and to sell the meat or other parts, except hides, from those lawfully taken American alligators only within the State of Louisiana

subject to the laws and regulations of that State was promulgated on September 6, 1979 (44 FR 51980). The details of other aspects of the proposal may be obtained by consulting the Federal Register of July 18, 1979 (44 FR 41894).

**Summary and Analysis of Comments**

Both proposals (October 2, 1978, 43 FR 45513; and July 18, 1979, 44 FR 41894) and related Department of the Interior news releases (September 28, 1978, and July 20, 1979) invited comments. The Service also requested comments during a reopened comment period from May 10, 1979, through June 5, 1979 (May 9, 1979, 44 FR 27190), and received comments at public hearings held on May 25, 1979, at Morgan City, Louisiana, and on May 29, 1979, at Tallahassee, Florida.

The Service received a number of comments. Among these were included comments from the following elected officials, governmental agencies, or organizations: Governor Edwin Edwards (State of Louisiana), Congressman David C. Trean (Third District, Louisiana), Louisiana Wild Life and Fisheries Commission (Donald F. Wille and J. Burton Angelle), Louisiana Wild Life and Fisheries Commission—Rockefeller Wildlife Refuge (Ted Joanen), Little Pecan Wildlife Management Area (Robert A. Koll), Jefferson Davis Parish Police Jury, Terrebonne Parish Police Jury, Florida Game and Fresh Water Fish Commission (Col. Robert Brantly), South Carolina Wildlife and Marine Resources Department (James A. Timmerman, Jr.), International Association of Fish and Wildlife Agencies (Jack H. Berryman), Southeastern Association of Fish and Wildlife Agencies—Alligator Committee (J. Burton Angelle), Food and Agriculture Organization of the United Nations—Project on Assistance to the Crocodile Skin Industry (R. Whitaker), Environmental Defense Fund (Michael J. Bean), Defenders of Wildlife (John W. Grandy, IV), Florida Audubon Society (Dr. Archie Carr, III), National Wildlife Federation (Thomas L. Kimball), Southeastern Alligator Association (J. Don Ashley), Southwest Florida Regional Alligator Association (George R. Campbell), Columbia Impex Corporation (Armand S. Bennett), Westchester Animal Protection League (Stephan Zebreck), Sympathetic People for Animal Rights on Earth, Inc. (Laura Bellow), Fouke Company (Goerge G. Heinz), J. M. Burguieres, Co., Ltd., (Samuel T. Burguieres), Ascantia, Inc. (Michael H. Ellis), Williams, Inc. (Hugh C. Brown), and Deseret Ranches of Florida, Inc. (Harvey A. Dahl).

At Morgan City, Louisiana, approximately 200 persons attended the public hearing and 19 people made statements. In addition, a number of written comments and resolutions were presented for inclusion in the minutes of the public hearing. The following institutions and governmental representatives made statements: Mr. Richard Yancey (Assistant Secretary, Louisiana Department of Wild Life and Fisheries), State Senator Jesse Knowles, Doyle Berry (Chairman, Louisiana Wild Life and Fisheries Commission), Don Wille (Vice Chairman, Louisiana Wild Life and Fisheries Commission), Charles A. Riggs (Commissioner, Louisiana Wild Life and Fisheries Commission), St. Mary's Parish Police Jury, Terrebonne Parish Policy Jury, Tangipahoa Parish Police Jury, Livingston Parish Policy Jury, Williams Inc., Continental Land and Fur Co., Ascantia Corp., Tenneco LaTerre, Allen Parish Police Jury, St. Landry Parish Policy Jury, Vermillion Corp., St. John the Baptist Parish Police Jury, Louisiana Land Exploration Corp.

At Tallahassee, Florida, 15 persons attended the public hearing and four made statements: Allan Egbert and Tommy Hines (Florida Game and Fresh Water Fish Commission), J. Don Ashley (Southeastern Alligator Association), Mr. Charles Lee (Florida Audubon Society).

The Service has carefully considered all of these comments and statements. Those received on the controlled harvest of American alligators in Louisiana and the sale of meat or other parts, except hides, were summarized and discussed on September 6, 1979 (44 FR 51980), and will not be repeated. Aspects of the latest proposal (July 18, 1979, 44 FR 41894) on which relevant comments and statements have been received during open comment periods or at public hearings since October 2, 1978, are addressed separately below.

1. *American alligators in captivity.* Several commenters expressed dissatisfaction with the Service's proposed handling of American alligators classified under § 17.11 as "in captivity wherever found." The Service proposed to: (1) allow the taking of American alligators in captivity which meet the definition of "bred in captivity" without the prior grant of a Federal permit, subject to enumerated requirements, (2) eliminate the availability of permits issued under § 17.52 (Permits—similarity of appearance), and (3) require a permit issued under § 17.32 (Permits—general) to either take captive American alligators which have not been bred in captivity or to engage in any other

prohibited activity, except taking, with any American alligators in captivity.

Although these changes would have provided more flexibility in the administration of American alligator farm programs, such provisions might adversely affect Louisiana's State-sponsored alligator farm program and any subsequent State-sponsored programs. The definition of "bred in captivity" also contained provision for augmenting the captive population from the wild, without designating who will determine when the guidelines for such augmentation have been met. Initially, a substantial number of American alligators within a farming/propagation program would not be bred in captivity and the contemplated use of these alligators would not fall within the purposes for which a permit may be issued under § 17.32.

As a result the Service has deleted the definition "bred in captivity" and removed authorization to take American alligators bred in captivity without the prior grant of a Federal permit. The Service will continue to require a permit to engage in otherwise prohibited activities, including taking, with any American alligators in captivity. Permits for these alligators are available only under the special rule, § 17.42(a). These permits may authorize commercial activity with all captive alligators and will not restrict the use of a portion of the captive population to purposes for which a permit may be issued under § 17.32.

One commenter took exception to the classification of a population of American alligators as "in captivity wherever found." Although the current classification is not a topic of this rulemaking, permits to engage in otherwise prohibited activities with captive American alligators would be subject to stricter control under § 17.42(a) than previously, when permits were available under § 17.52. The Service recognizes that captivity must occur lawfully, and in addition, will only issue permits when American alligators have been born in captivity, or lawfully placed in captivity.

2. *Sale of American alligator meat and other parts, except hides.* Numerous commenters suggested or supported authorization to sell the meat and other parts of American alligators taken lawfully, including from captivity to prevent the wasting of a valuable resource. For this reason the Service has included provisions to allow such sale whenever American alligators are taken lawfully, subject to the same restrictions imposed by the special rule on the sale of meat and other parts from American alligators taken lawfully during

Louisiana's controlled harvest. See 44 FR 51980 (September 6, 1979). The sale of these items is allowed only in the State where the taking occurs, if authorized by State law and conducted in accordance with State laws and regulations.

Also, States which may subsequently be given authority to conduct a controlled harvest now can be assured of having the opportunity to allow the sale of meat and other parts within the State. Although the Service has not required any particular form of State regulation, the Service remains opposed to unregulated sale. Licensing and recordkeeping requirements imposed by the State of Louisiana, for example, have facilitated effective enforcement with respect to the sale of meat and other parts within Louisiana. The Service will continue to review the measures adopted by States to control the sale of meat and other parts and, if necessary, will require the imposition of certain regulatory controls.

3. *Export.* A number of comments addressed, either directly or indirectly, the proposed export findings of the U.S. Endangered Species Scientific Authority (hereinafter referred to as the ESSA) for the export of lawfully taken American alligator hides (May 31, 1979, 44 FR 31584, and August 13, 1979, 44 FR 47386), which would allow export only to licensed buyers, tanners, or fabricators located in countries which have ratified the CITES and which have not taken reservations for any crocodylians. No such situs restriction was proposed by the Service. In its place a highly regulated "closed system" has been adopted by the Service, which does not exclude a buyer, tanner, or fabricator who uses crocodylians listed on Appendix I of the Convention, but does impose additional recordkeeping and reporting requirements on such a permittee. The "closed system" is discussed at greater length below.

One commenter suggested a three to six month moratorium on the exportation of American alligator hides during which domestic tanners and fabricators can "gear up" to meet foreign competition. Since three parishes in Louisiana were classified as threatened—similarity of appearance on September 26, 1975 (40 FR 44412), only a domestic market has existed. American alligators were not eligible to be commercially traded in foreign commerce until the alligator's status under the CITES was changed from Appendix I to Appendix II on June 28, 1979 (44 FR 25480, May 1, 1979). This transfer was proposed on February 14, 1979 (44 FR 9689). Ample notice of the

possibility of foreign competition has been given to domestic tanners and fabricators.

4. *Permits.* The worldwide "closed system" proposed by the Service and the effect of this international commercialization of lawfully taken American alligator hides and products from these hides generated the greatest number of comments.

One commenter felt the proposal would be likely to stimulate an increased worldwide demand for American alligator hides, which may outstrip the legally available supply. The same commenter went on to ask whether law enforcement measures are adequate to protect the wild resource (i.e., American alligator) and whether the proposed "closed system" regulatory scheme, with its onsite inspection program, is enforceable. The Service has made every effort through tagging, labeling, marking, recordkeeping, reporting, and inspection requirements to insure that trade in American alligators will be restricted to permittees operating in strict compliance with the special rule. The fact that the American alligator is exclusively a U.S. species, that its numbers appear to be on the increase, and that at least some geographic populations are neither biologically threatened or endangered indicate the Service's approach is a sound one. Only lawfully taken American alligator hides should enter the system, and only products from those hides should leave it.

Several general factors recently summarized by the ESSA on May 31, 1979 (44 FR 31586), also indicate that the export of lawfully taken American alligator hides will not be detrimental to the survival of the species: (1) the excessive harvest of the American alligator which occurred in past years has given way to sound management of the species, (2) domestic trade has come under increased Federal control, and (3) the species has responded well to increased protection.

Several commenters found the proposal overzealous and restrictive because of the institution of extensive recordkeeping requirements, the inclusion of fabricators within the "closed system," and the imposition of more stringent application criteria on foreign applicants. The Service disagrees. Recordkeeping and reporting requirements are an integral part of enforcement and monitoring. Reports are to be used to assess compliance with the regulations, to determine the effectiveness of the regulations, and to monitor the impact of the special rule on the American alligator and other affected species of the Order Crocodylia.

The Service will periodically review implementation of these regulations, including the reports from permittees, and will impose, if necessary, additional conditions on permits issued pursuant to these regulations to insure that trade in American alligators and other species of the Order Crocodylia is effectively controlled in accordance with existing law. The Service hopes the availability of lawfully taken American alligators will result in less exploitation of other endangered crocodylians, particularly when a reliable long-term supply of American alligators is foreseeable.

To determine the impact the introduction of American alligators will have on international trade in endangered crocodylians, the Service is requiring a report on the applicant's dealings during the preceding five years with those crocodylians listed on Appendix I of the CITES to the extent such records are available, as one of the application requirements for a buyer, tanner, or fabricator permit.

One commenter felt the imposition of recordkeeping and reporting requirements would impede international trade in American alligators because such information could be considered a trade secret. Indeed, the most significant impact will be on buyers, tanners, or fabricators located outside of the United States who are engaged in high volume trade in crocodylians. Because of their high volume trade in other crocodylians they have a greater opportunity to commingle American alligator hides and products with those of other crocodylians. However, any trade secrets submitted by an applicant or permittee are protected by existing Federal law. See 18 USC 1905 and 5 USC 552.

Fabricators are an integral part of the "closed system" and must continue to hold a valid Federal permit to fabricate tanned American alligator hides. If fabricators are excluded from the permit system several weaknesses develop: (1) the United States would not have jurisdiction over the activities of foreign fabricators, (2) there would be no way to document the relationship of American alligator hides processed to finished American alligator products, and (3) no authority would exist to require a fabricator to mark products.

More stringent application requirements are imposed on foreign applicants as part of the expansion of the domestic "closed system" worldwide. To insure jurisdiction over foreign permit holders they are required to appoint an agent for the service of process and to identify any property held in the United States. Before a buyer, tanner, or fabricator permit is

issued to a foreign applicant the Director will consider the opinions and views of the ESSA. Foreign permittees will be subject to permit revocation and other applicable sanctions of the Act for violation of permit conditions.

Several commenters found the recordkeeping requirements insufficient. The Service agrees and has adopted *species-specific* recordkeeping for transactions with other species of the Order Crocodylia. Permittees, however, are only required to report on transactions with American alligators and other species of the Order Crocodylia listed on Appendix I of the CITES. This should reduce the reporting burden on permittees, yet provide the Service with information on the permittee's activities most subject to scrutiny. If additional records must be reviewed they can be inspected at the permittee's premises under § 13.47.

The Service has not adopted suggestions to impose a special condition on buyer, tanner, or fabricator permits which either would require buyers, tanners, or fabricators to be located in countries which have ratified the CITES and not taken reservations for any crocodylians, or would limit, and perhaps cease, a permittee's use of Appendix I crocodylians. The Service has adopted a special condition requiring permittees to abide by any State, Federal, or foreign laws concerning any hide, part, or product of any species of the Order Crocodylia. Voluntary submission by an applicant to the permit conditions and the jurisdiction of the United States is sufficient. Any additional restrictions on the lawful use of crocodylians would operate in the nature of a penalty for actions which are otherwise lawful.

#### Description of the Final Rule

The primary purpose of this rule, as described above, is to expand worldwide the domestic "closed system" of trade in lawfully taken American alligator hides and products from those hides created by the special rule, with adjustments to take into account changed circumstances.

The Service has accomplished this by: (1) indicating which American alligators are covered by the special rule and the conditions under which they are available, (2) authorizing the export and import of qualified hides and products in accordance with the CITES, and (3) allowing foreign buyers, tanners, and fabricators entry into the highly regulated "closed system."

The final rule contains the provisions enumerated below.

1. American alligators listed under § 17.11 as "in captivity wherever found"

are included in the definition "American alligator" and are now covered by the special rule. Permits to engage in otherwise prohibited activities with captive American alligators are no longer available under § 17.52 (Permits—similarity of appearance). Permits are only available under the special rule, § 17.42(a)(3)(iv), as provided by section 4(d) of the Act (16 U.S.C. 1533(d)), and may be issued to take any American alligator in captivity, subject to the enumerated conditions, which have been bred in captivity or lawfully placed in captivity. In addition, the permit issued under the special rule may authorize the permittee to engage in other prohibited activities without being restricted to the purposes for which a permit may be issued under § 17.32.

2. The meat and other parts, except hides, of lawfully taken American alligators may be sold only in the State where the taking occurs if such sale is authorized by State law and conducted in accordance with State laws and regulations. This presently includes the possibility for such sale from American alligators taken: (a) from the wild during Louisiana's controlled harvest, (b) as nuisance alligators within Florida and Louisiana, and (c) from captivity.

3. American alligators listed under § 17.11 as threatened—similarity of appearance may be taken from the wild in accordance with the laws and regulations of the State in which the taking occurs, subject to two conditions. See § 17.42(a)(2)(i)(D). Incorporation of the listing eliminates the need to amend the special rule whenever it is affected by a reclassification of the American alligator.

4. Export and import of the hides and manufactured products of lawfully taken American alligators are not prohibited if conducted in accordance with CITES, as long as the hides bear the tag attached by the State where the taking occurred or the manufactured products have the mark attached which was provided by the Service and affixed by the fabricator, at the time of export or import. When the Service's mark is affixed to manufactured products, only CITES documentation is necessary. Tagged hides, however, still have to move within the "closed system."

5. Permits are available under § 17.32 (Permits—general) in relation to American alligators for the purposes for which permits may be issued under that section, which are: scientific purposes,

or the enhancement of propagation or survival; economic hardship; zoological exhibition; educational purposes; or special purposes consistent with the purposes of the Act.

6. Buyer, tanner, or fabricator permits (hereinafter referred to as BTF permits) issued under the special rule, § 17.42(a)(3)(iii), are available to foreign applicants, but additional application requirements have been imposed on them. Through application requirements, issuance criteria, and special conditions BTF permits establish the "closed system" to address the potential for commingling lawfully taken American alligator hides with illegally taken hides or with hides of other species of the Order Crocodylia and the potential for commingling the products of each. A number of provisions have been added to accomplish this objective:

a. Hides can be sold or otherwise transferred only to BTF permittees. Hides must be tagged, and all tags accounted for when removed for fabrication.

b. BTF permittees can only sell or otherwise transfer American alligator hides to other BTF permittees, except for fabricated products upon which a label provided by the Service is affixed.

c. Recordkeeping is required for all transactions in any crocodylians in accordance with § 13.46.

d. Annual reporting is required for transactions in American alligators and Appendix I crocodylians.

e. Applicants for BTF permits must include a report on the applicant's dealings during the preceding five years with species of the Order Crocodylia which at any time have been listed on Appendix I of the CITES, to the extent such records are available.

f. As a general condition of the permit under § 13.47, BTF permittees are subject to reasonable inspections.

g. Detailed organizational information is required of business organizations.

h. BTF permittees must not violate any State, Federal, or foreign laws concerning any hide, part, or product of any species of the Order Crocodylia.

7. The self-defense exception formerly found in paragraph (a)(1)(i)(A) has been deleted. The Act, as amended (16 USC 1540), liberalized the circumstances under which the defense can be raised. The Service plans to propose revised self-defense regulations applicable to all endangered and threatened wildlife in the near future.

### Effective Date of This Rule

The Service has found good cause, as required by 5 U.S.C. 553(d)(3) and 43 CFR 14.5(b)(5), for making this rulemaking effective immediately. The State of Louisiana began a controlled harvest of the American alligator on September 7, 1979. This rulemaking is necessary to allow restricted trade in lawfully taken American alligators which will not be detrimental to the conservation of the species.

### National Environmental Policy Act

An environmental assessment has been prepared in conjunction with this rulemaking. It is on file in the Service's Division of Law Enforcement, 1375 K Street, NW., Washington, D.C., and may be examined during regular business hours. This assessment forms the basis for the decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. The primary author of this rulemaking is Mr. John T. Webb, Paralegal Specialist, Division of Law Enforcement, (202) 343-9242.

### Regulations Promulgation

Accordingly, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations is hereby amended as set forth below:

### PART 13—GENERAL PERMIT PROCEDURES

#### § 13.12 [Amended]

1. Amend § 13.12(b) by inserting two (2) additional types of permits, "American alligator—buyer, tanner, or fabricator . . . . . 17.429(a)" and "American alligator—American alligators in captivity . . . . . 17.42(a)" after "General for wildlife . . . . . 17.32" and before "General for plants . . . . . 17.72."

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

2. Amend § 17.11(i) by replacing the entries for "Alligator, Am.," under "Reptiles," with the following entries:

#### § 17.11 Endangered and threatened wildlife.

\* \* \* \* \*

Species		Population	Range		Status	When listed	Special rules
Common name	Scientific name		Known distribution	Portion endangered			
Alligator, American	<i>Alligator mississippiensis</i>	Wherever found in the wild, except in those areas where it is listed as Threatened, as set forth below.	Southeastern United States.	Entire	E	11	NA
Alligator, American	<i>Alligator mississippiensis</i>	In the wild in FL and in certain areas of GA, LA (except in those parishes listed as T(S/A)), SC and TX, as set forth in Sec. 17.42(a)(1).	U.S. (FL and certain areas of GA, LA (except in those parishes listed as T(S/A)), SC and TX.	Entire	T	20	17.42(a)
Alligator, American	<i>Alligator mississippiensis</i>	In the wild in Cameron, Vermilion, Calcasieu, Iberia, St. Mary, St. Charles, Terrebonne, Lafourche, St. Bernard, Jefferson, St. Tammany, and Plaquemines Parishes in LA.	U.S. (Cameron, Vermilion, Calcasieu, Iberia, St. Mary, St. Charles, Terrebonne, Lafourche, St. Bernard, Jefferson, St. Tammany, and Plaquemines Parishes in LA).	NA	T(S/A)	11	17.42(a)
Alligator, American	<i>Alligator mississippiensis</i>	In captivity wherever found	Worldwide	NA	T(S/A)	11	17.42(a)

3. Revise § 17.42(a) to read as follows:

§ 17.42 Special rules—reptiles.

(a) American alligator (*Alligator mississippiensis*). (1) Definitions. For the purposes of this paragraph (a): "American alligator" shall mean any member of the species *Alligator mississippiensis*, and any part, offspring, dead body, part of a dead body, or product of such species occurring in captivity wherever found or in the wild wherever listed under § 17.11 of this subchapter as threatened—similarity of appearance, and in the wild in Florida and in certain coastal areas of Georgia, Louisiana, South Carolina, and Texas, contained within the following boundaries:

From Winyah Bay near Georgetown, South Carolina, west on U.S. Highway 17 to Georgetown; thence west and south on U.S. Alternate Highway 17 to junction with U.S. Interstate Highway 95 near Walterboro, South Carolina; thence south on U.S. Interstate Highway 95 (including incomplete portions) to junction with U.S. Highway 82; thence southwest on U.S. Highway 82 to junction with U.S. Highway 84 at Waycross, Georgia; thence west on U.S. Highway 84 to the Alabama-Georgia border; thence south along this border to the Florida border and following the Florida border west and south to its termination at the Gulf of Mexico. From the Mississippi-Louisiana border at the Gulf of Mexico north along this border to its junction with U.S. Interstate Highway 12; thence west on U.S. Interstate Highway 12 (including incomplete portions) to Baton Rouge, Louisiana; thence north and west along corporate limits of Baton Rouge to U.S. Highway 190; thence west on U.S. Highway 190 to junction with Louisiana State Highway 12 at Ragley, Louisiana; thence west on Louisiana State Highway 12 to the

Beauregard-Calcasieu Parish border; thence north and west along this border to the Texas-Louisiana State border; thence south on this border to Texas State Highway 12; thence west on Texas State Highway 12 to Vidor, Texas; thence west on U.S. Highway 90 to the Houlston, Texas, corporate limits; thence north, west and south along Houston corporate limits to junction on the west with U.S. Highway 59; thence south and west on U.S. Highway 59 to Victoria, Texas; thence south on U.S. Highway 77 to corporate limits of Corpus Christi, Texas; thence southeast along the southern Corpus Christi corporate limits to Laguna Madre; thence south along the west shore of Laguna Madre to the Nueces-Kleberg County line; thence east along the Nueces-Kleberg County line to the Gulf of Mexico.

"Buyer" shall mean a person engaged in the business of buying hides of American alligators for the purpose of resale.

"Captivity" shall mean held in a controlled environment that is intensively manipulated by man for the purpose of producing American alligators, and that has boundaries designed to prevent them from entering or leaving the controlled environment. General characteristics of captivity may include but are not limited to artificial housing, waste removal, health care, protection from predators, and artificially supplied food.

"Fabricator" shall mean a person engaged in the business of manufacturing products from American alligator leather.

"Tanner" shall mean a person engaged in the business of processing green, untanned hides of American alligators into leather.

(2) Prohibitions. Except as provided by permits available under paragraph (a)(3), the following prohibitions apply to the American alligator.

(i) Taking. Except as provided in this paragraph (a)(2)(i) no person may take American alligators.

(A) Any employee or agent of the Service, any other Federal land management agency, or a State conservation agency, who is designated by the agency for such purposes, may, when acting in the course of official duties, take American alligators without a permit if such action is necessary to:

- (1) Aid a sick, injured or orphaned specimen;
- (2) Dispose of a dead specimen;
- (3) Salvage a dead specimen which may be useful for scientific study; or
- (4) Remove a specimen which constitutes a demonstrable but non-immediate threat to human safety. The taking must be done in a humane manner, and may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(B) Any taking pursuant to paragraph (a)(2)(i)(A) must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days.

(C) Any employee or agent of the Service or of a State conservation agency which is operating under a cooperative agreement which covers American alligators with the Service, in accordance with section 6(c) of the Act

(See 50 CFR Part 81 for rules implementing a cooperative agreement), may, when acting in the course of official duties, take American alligators to carry out scientific research or conservation programs.

(D) Any person may take American alligators in the wild wherever listed under § 17.11 of this subchapter as threatened—similarity of appearance in accordance with the laws and regulations of the State in which the taking occurs, provided the following requirements are met:

(1) The hides of such alligators are only sold, offered for sale, or otherwise transferred to persons holding a valid Federal permit to buy hides, issued under paragraph (a)(3); and

(2) The meat and other parts, except hides, are sold only in the State in which the taking occurs, and only in accordance with the laws and regulations of that State.

(E) When American alligators are taken by Federal or State officials in accordance with paragraphs (a)(2)(i)(A) or (a)(2)(i)(C) the hides, meat, and other parts may be sold by their respective agencies, provided the following requirements are met:

(1) The hides are only sold, offered for sale, or otherwise transferred to persons holding a valid Federal permit to buy hides, issued under paragraph (a)(3);

(2) The hides have been tagged by the State of origin with a noncorrodible numbered tag inserted no more than 6 inches from the tip of the tail;

(3) The tag number, length of belly skin, and date and place of the specimen's taking are recorded by the State;

(4) A tag or label is affixed to the outside of any package used to ship the hides, identifying its contents as American alligator hides, indicating their origin and State of

Convention), provided that such hides bear the noncorrodible numbered tag attached by the State where the taking occurred and such manufactured products have the mark attached which was provided by the Service and affixed by the fabricator, as required by paragraph (a)(3), at the time of import or export.

(iv) *Commercial transactions.* No person may deliver, receive, carry, transport, ship, or sell, or offer to sell in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any American alligator, except that manufactured products of American alligators which have been marked in accordance with paragraph (a)(3)(iii)(C)(10) by a fabricator holding a valid Federal permit may be transported, shipped, delivered, carried, or received in interstate or foreign commerce in the course of a commercial activity, and may be sold or offered for sale in interstate or foreign commerce.

(3) *Permits—(i) General.* Permits are available under § 17.32 (Permits—general) of this subchapter for all of the prohibited activities referred to in paragraph (a)(2). All the terms and provisions of § 17.32 shall apply to such permits.

(ii) *Similarity of appearance.* Permits are not available under § 17.52 (Permits—similarity of appearance) of this subchapter for any of the prohibited activities referred to in paragraph (a)(2).

(iii) *Buyer, tanner, or fabricator.* Upon receipt of a complete application, the Director may issue a permit in accordance with the issuance criteria of this paragraph (a)(3)(iii) for a buyer, tanner, or fabricator, authorizing the permittee to engage in any of the prohibited activities referred to in paragraph (a)(2).

(A) *Application requirements.* Applications for permits under this paragraph (a)(3)(iii) must be submitted to the Director by the person who wishes to engage in the activities of a buyer, tanner, or fabricator. Each application must be submitted on an official application form (Form 3-200) provided by the Service, and must include, as an attachment, all of the following information:

(1) The category or categories (buyer and/or tanner and/or fabricator) for which the permit is desired;

(2) A description of the applicant's business organization and other business organizations associated with such organization, including: a description of the physical plant; the method of operation of the business; experience, if any, over the previous five years; the names and addresses of all

shareholders, partners, directors, officers, or other parties in interest in the business organization;

(3) A description, including samples, of the applicant's present or proposed system of inventory control and bookkeeping capable of insuring accurate accounting for all American alligator hides and State tags, and all hides of any other species of the Order Crocodylia dealt with by the applicant;

(4) A statement detailing any criminal or civil violations of any State, Federal, or foreign law by the applicant within the previous five years for taking or trafficking in wildlife, and if the applicant is a business organization, by any shareholder, partner, director, officer, principal, employee, agent, or other party in interest in the business organization or any other business organization associated with such business organization;

(5) A report in English of the applicant's dealings during the preceding five years with those species of the Order Crocodylia which at any time have been listed on Appendix I to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, to the extent records of such dealings are available;

(6) Foreign applicants must disclose the nature and location of all property in the United States in which the applicant has an interest; and

(7) Foreign applicants must provide the name and address of an agent located in the United States who is authorized to receive service of process for the applicant and upon whom process can be served.

(B) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a)(3)(iii)(A), the Director will decide whether or not a buyer, tanner, or fabricator permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the applicant's reliability and apparent ability and willingness to maintain and disclose accurate inventory and bookkeeping records of all American alligator hides and State tags, and all hides of any other species of the Order Crocodylia dealt with by the applicant. In addition, the Director may consider the opinions and views of scientists, law enforcement officials, or other persons or organizations having expertise concerning trade in any species of the Order Crocodylia.

(C) *Special conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, permits issued under paragraph (a)(3)(iii) are subject to the following special conditions:

(1) Permittees may not buy, tan, or fabricate any American alligator hide except one which was taken, sold, offered for sale, delivered, carried, transported, or shipped in accordance with paragraph (a)(2)(i);

(2) Permittees may only sell, offer for sale, deliver, carry, transport, or ship American alligator hides to holders of valid Federal permits which authorize the buying, tanning, or fabricating of American alligator hides;

(3) Permittees may not violate any State, Federal, or foreign laws concerning any hide, part, or product of any species of the Order Crocodylia;

(4) Permittees must maintain complete and accurate inventory control and bookkeeping records in accordance with the provisions of § 13.46 of this subchapter, including the numbers of all State tags, and any permits or other documents required by the Convention on International Trade in Endangered Species of Wild Fauna and Flora or other State, Federal, or foreign law, concerning all transactions in American alligators and any other species of the Order Crocodylia;

(5) Permittees must file a written report in English with the Director on March 31 of each year concerning all transactions with American alligators and other species of the Order Crocodylia listed on Appendix I to the Convention on International Trade in Endangered Species of Wild Fauna and Flora during the preceding calendar year ending December 31 (such report shall include the number of hides, parts, and products by species; the supplier's name and address; and the country where taken from the wild, if known);

(6) Permittees may not transport or ship any American alligator hide, part or product unless a tag or label is affixed to the outside of any package used to transport or ship the hides, parts, or products, identifying its contents as American alligator and indicating the quantity, State tag numbers (if any), and the names and addresses of the consignor and consignee;

(7) A buyer and/or tanner must leave all State tags on the hides;

(8) A fabricator must remove, record, and return to the issuer all tags on the hides;

(9) Fabricators shall maintain complete and accurate records showing the relationship of American alligator hides processed to finished American alligator products; and

(10) Fabricators must affix, a mark provided by the Service to each product made of American alligator hides, and shall not affix such mark to products of any other species of the Order Crocodylia.

(D) *Duration of permits.* The duration of permits issued under this paragraph (a)(3)(iii) shall be designated on the face of the permit.

(iv) *American alligators in captivity.* Upon receipt of a complete application, the Director may issue a permit authorizing the permittee to engage in any of the prohibited activities referred to in paragraph (a)(2) with live American alligators which have been born in captivity or which have been lawfully placed in captivity.

(A) *Application requirements.* Applications for permits under this paragraph (a)(3)(iv) must be submitted to the Director by the person who wishes to engage in the prohibited activity in accordance with the application requirements of § 17.32(a) of this subchapter. In addition, the application must include, as an attachment, documentary evidence or other appropriate information where available, and sworn affidavits to show that the American alligators for which a permit is sought have been held in captivity and that they were either born in captivity or lawfully placed in captivity.

(B) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a)(3)(iv)(A), the Director will decide whether or not a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, whether the information submitted by the applicant appears reliable, and the applicant's reliability and apparent ability and willingness to maintain and disclose accurate inventory and bookkeeping records of all American alligators, and any other species of the Order Crocodylia dealt with by the applicant. In addition, the Director may consider the opinions and views of scientists, law enforcement officials, or other persons or organizations having expertise concerning trade in any species of the Order Crocodylia.

(C) *Special conditions.* All permits issued under this paragraph (a)(3)(iv) shall be subject to the general conditions set forth in Part 13 of this subchapter. In addition, any permit which authorizes the taking of American alligators is subject to the following special conditions:

(1) The hides are tagged by the State where held in captivity with a noncorrodible numbered tag inserted no more than 6 inches from the tip of the tail;

(2) The tag number, length of belly skin, and date and place of the specimen's taking are recorded by the State;

(3) The hides of such alligators are only sold, offered for sale, or otherwise transferred to persons holding a valid Federal permit to buy hides, issued under paragraph (a)(3);

(4) A tag or label is affixed to the outside of any package used to ship the hides, identifying its contents as American alligator hides, indicating their quantity and tag numbers, and providing the name and address of the consignor and consignee;

(5) The meat and other parts, except hides, may be sold only in the State where taking occurs, and only in accordance with the laws and regulations of that State;

(6) Complete and accurate inventory control, bookkeeping, and other appropriate records must be maintained in accordance with the provisions of § 13.46 of this subchapter, including the numbers of all State tags, concerning any taking or transaction in American alligators; and

(7) The permittee must file a written report with the Director on March 31 of each year concerning all activities conducted pursuant to the permit for the preceding calendar year ending December 31.

(D) *Duration of permits.* The duration of permits issued under this paragraph (a)(3)(iv) shall be designated on the face of the permit.

(16 U.S.C. 1531-1543.)

Note.—The Department has determined that this rule is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: October 5, 1979.

Lynn A. Greenwalt,  
Director, U.S. Fish and Wildlife Service.

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