ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Reclassification of the American Alligator in Louisiana, and proposed Changes to Special Rules Concerning the Alligator

AGENCY: Fish and Wildlife Service, Interior.

SUMMARY: It is proposed to change the alligator parishes of southern Louisiana from their present threatened status to species act of 1973. This proposal is the alligator has increased its numbers threatened under the similarity of appearance. The proposal is a limitation upon the applicability to American alligators of general permitting involved. This estimate is based on a combination of expansion of the nesting density index and comments from field personnel. A parish-by-parish estimate was not included although estimates were provided on the basis of habitat type.

BACKGROUND

Introduction.—The alligator is a large conspicuous member of its environment and has been feared, praised, and exploited probably since man first came to southeastern North America. Early naturalists and explorers presented startling and unbelievable stories concerning the species and its behavior. However, in spite of its major role in the ecosystems of the South, surprisingly little scientific work was conducted on it and then often with conflicting observations. Today, the importance of the alligator as a top predator, modifier of its environment, and behaviorally sophisticated species is universally recognized by the scientific and wildlife management communities.

One of the main commercial values of the alligator is for its hide, which can be fashioned into leather articles. Hunting and poaching at one time seriously reduced the number of alligators and led to its inclusion as endangered throughout its range under provisions of the Endangered Species Conservation Act of 1966. Strict Federal protection coupled with strong State laws, enabled the alligator populations to recover dramatically in many parts of its former range. Because of this, the alligator has been reclassified twice to reflect its improved status (September 26, 1975 (40 FR 44412-44429), and January 10, 1977 (42 FR 2071-2077)). The Endangered Species Act authorizes the protection of species, subspecies, or any other groups of fish or wildlife of the same species or smaller taxa in common spatial arrangements that interbreed when mature. The Service has designated four different groups or populations of the American alligator, and has classified these groups as endangered, threatened, or threatened (similarity of appearance) depending on the locality involved.

DATES: Comments from the public and the Governor of Louisiana must be received by December 26, 1978.

Public hearings will be held on this proposal. The dates and places for the hearings will be published in the Federal Register at a later date.

ADDRESSES: Submit comments to Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036. All material received will be available for inspection during normal business hours at the Service’s office in Suite 000, 1012 K. Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION

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(g) "Louisiana's Experimental Alligator Harvest Program" by T. Joenan and L. McNease. 1976.


(j) A letter (dated June 14, 1978) by T. Joenan with another group of documents:

(1) Letter—Provided an updated parish by parish estimate of the alligator population and a more precise picture of how the alligator is censused within the State.

(b) "Artificial Incubation of Alligator Eggs and Post Hatching Culture in Contained Environmental Chambers" by T. Joenan and L. McNease. 1977.

(c) "Effects of Simulated Flooding on Alligator Eggs" by T. Joenan, L. McNease, and G. Perry. 1977.

(d) "A Comparison of Native and Introduced Immature Alligators in Northeast Louisiana" by D. Taylor, T. Joenan and L. McNease.

(e) "Culture of American Alligator" by T. Joenan and L. McNease.


(g) "Status of Louisiana Alligator Farm Program by T. Joenan and L. McNease. 1976.


(i) "Alligator Diets in Relation to Marsh Salinity" by L. McNease and T. Joenan. 1977.

The Service has reviewed all available data and the Director has determined that because of large population sizes and increasing numbers, the American alligator is no longer likely to become endangered in the foreseeable future so as to be threatened in the following parishes in southern Louisiana: Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, and St. Tammany. The Service believes that the alligator can be managed within these areas and that no harm will be done to the species by controlled harvest. However, because of similarity of appearance, it is still necessary to impose some restrictions on commercial activities involving specimens taken in these nine parishes to insure the conservation of other alligator populations that are threatened or endangered.

Section 4(e) of the Act authorizes the treatment of a species or sub-species or group of wildlife in common spatial arrangement as an endangered or threatened species even though it is not otherwise listed as endangered or threatened, if it is found: (a) that the species or sub-species presents additional substantial difficulty in differentiating between listed and unlisted species; (b) that the effect of this substantial difficulty is an additional threat to the conservation of such species; (c) that such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of the Act. The Service currently treats the group of American alligators found in Cameron, Vermilion, and Calcasieu Parishes in Louisiana as threatened because of their similarity in appearance to other groups of American alligators that are listed as threatened or endangered. Certain restrictions are imposed on commercial activities involving specimens taken from these three parishes, as is discussed below, to insure the conservation of those groups of American alligators that are listed as threatened or endangered. The Service now proposes to treat the group of American alligators found in Iberville, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, and St. Tammany Parishes in Louisiana as threatened because of similarity in appearance, and to impose similar restrictions on commercial activities involving specimens taken from those parishes.

The American alligator found in Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, and St. Tammany Parishes in Louisiana are indistinguishable from American alligators existing elsewhere which are treated by the Service as endangered or threatened under relevant provisions of the Act. Hides from American alligators have proved to have a great commercial value owing to the substantial demand for pelts of this species in the international leather trade. In addition, representatives of the food industry in Louisiana and Florida have recently expressed an interest in test marketing alligator meat as a novelty item. Historically, it has been shown that the taking of American alligators for commercial purposes was a substantial factor contributing to the decline of the species. This resulted in the previously imposed restrictions limiting the taking of American alligators as endangered or threatened over the major portion of its range. Restrictions on taking and commercial activities that stem from such listing would appear to facilitate the Service's enforcement efforts by allowing lawfully taken hides to be identified as such throughout the tanning fabrication process. The Service's interest in this regard is protected prior to the tanning stage to ensure that the requirement continues to be classified as endangered or threatened. In order to insure maximum protection for these endangered and threatened alligators, some restrictions on commercial activities have been found necessary for the physically similar group which exists in the same parishes affected by this proposal.

Although the State requested that additional parishes be delisted, these parishes either have small population sizes or the populations are stable, based on the State's population status information 1973-76. Therefore, the Service does not believe that a reclassification is warranted for these areas at this time. The Service will continue to monitor the alligator's status, however, and should reclassification be warranted substantially simplified without impairing its objectives. As a result, it proposes that present regulatory provisions requiring the submission of detailed information regarding the permit applicant's business organization, methods of operation, previous experience, and accounting systems be eliminated. In addition, owing to the fact that the Service is capable of ascertaining previous wildlife law violations through the record system of its Enforcement Division, the proposed regulations eliminate the necessity for permit applicants to furnish such information on themselves. The burden placed upon those seeking tanner's licenses would be slightly increased under the proposed regulations through the addition of a requirement that all hides be processed bear a series of markings on their underside applied by the tanner. This is intended to facilitate the Service's enforcement efforts by allowing lawfully taken hides to be identified as such throughout the tanning fabrication process. The Service's interest in this regard is protected prior to the tanning stage to ensure that the requirement continues to be classified as endangered or threatened. This burden placed upon fabricators of alligator hide articles has...
been decreased under the proposed regulations through the elimination of certain recordkeeping requirements which the Service has found to be unnecessary and the further elimination of marking requirements which are rendered superfluous by the proposed regulations.

Under §17.42 as presently constituted, the sale of meat from lawfully taken alligators is strictly prohibited. This position was adopted owing to the fact that control factors were lacking on the level for the regulation of such sales through licensing and recordkeeping requirements. The State of Louisiana has since imposed such controls. In recognition of this circumstance, and in further consideration of the fact that the present regulations mandate the wastage of an economically valuable source of protein, the proposed regulations would allow the sale of alligator meat in the State where the taking occurs, and where this activity is permitted and regulated through the imposition of licensing and recordkeeping requirements on selling parties. Section 17.42 which applies to all American alligator permits issued under section 17.32, authorizing the performance of activities otherwise prohibited with regard to threatened wildlife. Importation and exportation are two such prohibited activities. Despite the fact that its regulations would thereby allow permits to be issued for the importation and exportation of American alligators, the Service has few such permits to date, owing to its concern that legally exported alligator hides would be commingled with illegally taken hides that are known to exist outside the United States and because the alligator is listed on appendix I to the Convention on International Trade in Endangered Species of Wild Fauna and Flora which restricts international trade in species for primarily commercial purposes. However, the United States is presently considering a proposal to change the alligator's status under the Convention from appendix I to appendix II. This would remove the convention's absolute restriction on international trade. In other words, alligators from the 12 Louisiana parishes would be able to be exported and imported as far as the convention is concerned, subject to review and approval (for exports) of the U.S. Management Authority and Scientific Authority. The Service desires consistency between the convention and these rules, and favors a position which recognizes the greatly improved biological status of the alligator while retaining reasonable and necessary enforcement controls. Therefore, the rule would allow export consistent with the convention. Whether reimport of alligator hides or products could also be allowed, because of the lack of control over possible smuggled skins, is a question on which the Service desires recommendations from the public. The Service's present position is not to allow such reimport.

The above changes in the special rules pertaining to alligators would apply to the three parishes (Cameron, Calcasieu, Vermillion) where the alligator is classified as threatened (similarity of appearance) to the nine parishes proposed for reclassification to such status, and to any other American alligators which are so classified by the Service in the future. It should be recognized that by the express terms of this special rule, the "similarity of appearance" permits provided for in §17.52 are not available for these alligators. They are only available for captive alligators.

Pursuant to section 4(b) of the Act, the Director will notify the Governor of Louisiana with respect to this proposal and request his comments and recommendations before making final determinations.

Public Comments Sought

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited.

Final promulgation of the regulations on the American alligator in Louisiana will take into consideration the comments and any additional information received by the Director, and such communications may lead him to adopt final regulations that differ from these proposals.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW, Washington, D.C., and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is 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 authors of these proposed rules are Mr. Coleman Sachs, Legal Specialist, Division of Law Enforcement, 202-343-9347, and Dr. C. Kenneth Dodd, Jr. Office of Endangered Species, 202-343-7814.

Regulations Promulgation

Accordingly, it is hereby proposed to amend part 17, subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

§17.11 Endangered and threatened wildlife.

...
(2) Also, part 17, subpart D, title 50 of the Code of Federal Regulations is proposed to be amended as set forth below.

§ 17.42 [Amended]

1. Paragraph (a)(1) of § 17.42 is revised to read as follows:

(a) * * *

(1) Prohibitions. Except as provided by permits issued under paragraph (a)(3) of this section, the following prohibitions apply to the American alligator.

* * * * * * *

2. Paragraph (a)(1)(i)(E) of § 17.42 is revised to read as follows:

(a) * * *

(1) * * *

(E) Any person may take American alligators in Cameron, Vermilion, Calcasieu, Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Plaquemines, and Jefferson Parishes in accordance with the laws and regulations of the State of Louisiana provided the following requirements are met:

† The hides of such alligators are only sold in the State where the taking occurs, and only in accordance with the laws and regulations of that State.

* * * * * * *

3. Paragraph (a)(1)(K)(P) of § 17.42 is revised to read as follows:

(a) * * *

(1) * * *

(F) When American alligators are taken by Service or State officials in accordance with paragraph (a)(1)(K)(D) of this section, the hides may be sold by their respective agencies to any person holding a valid Federal license to buy hides, issued under thissubsection; provided the following requirements are met:

† The hides have been tagged by the State of origin with a noncorrodi-
bile numbered tag inserted no more than 6 inches from the tip of the tail;

‡ The tag number, length of belly skin, and date and place of the speci-
men's taking are recorded;

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

¶ The meat and other parts are

only sold in the State where

the taking occurs, and only in accordance with the laws and regulations of that State.

* * * * * * *

4. Paragraph (a)(1)(iv) of § 17.42 is revised to read as follows:

(a) * * *

(1) * * *

(iv) Commercial transactions. No person may deliver, receive, carry,
transport, ship, sell, or offer to sell in

interstate or foreign commerce, by any
means whatsoever, and in the course

of a commercial activity, any Ameri-
can alligator. Provided, That the
hides of American alligators lawfully
obtained from the State of Louisiana
prior to December 28, 1973, may be
sold or offered for sale in interstate
(not foreign) commerce if the director
of the State wildlife conservation
agency certifies to the Director that
all such hides were lawfully obtained
and can be identified; and such hides
are sold, offered for sale, delivered,
carried, transported, or shipped only
to a person holding a valid Federal li-
cense to buy hides, issued under this
subsection.

* * * * * * *

5. Paragraph (a)(2)(i) of § 17.42 is revised to read as follows:

(a) * * *

(2) * * *

(i) "Buyer" shall mean a person en-

gaged in the business of buying

hides of American alligators for the purpose of resale. A buyer may also be a
tanner or fabricator.

* * * * * * *

6. Paragraph (a)(2)(iv) is amended by adding the following words after the words "occurring in the wild in

* * * * * * *

(a) * * *

(2) * * *

(iv) * * * Iberia, St. Mary, St.

Charles, Terrebonne, Lafourche, St.

Bernard, Jefferson, St. Tammany, Pla-
queimines

* * * * * * *

7. Paragraph (a)(3)(i) of § 17.42 is revised to read as follows:

(a) * * *
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8. Paragraph (a)(3)(iii)(A)(2) of §17.42 is revised to read as follows:
   (a) * * *
   (3) * * *
   (iii) * * *
   (A) * * *
   (B) The name and address of the applicant's business organization, the address of any other facilities from which it is operated, and the names and addresses of its principal officers.


   (a) * * *
   (3) * * *

11. Paragraph (a)(3)(iii)(B) of §17.42 is revised to read as follows:
   (a) * * *
   (3) * * *
   (iii) * * *
   (B) Issuance criteria. Upon receiving an application completed in accordance with paragraph (a)(3)(iii)(A) of this section, the Director will decide whether or not a permit for the requested activity should be issued.

12. Paragraph (a)(3)(iii)(C)(4) of §17.42 is revised to read as follows:
   (a) * * *
   (3) * * *
   (iii) * * *
   (C) * * *
   (d) A tanner must leave all tags on the hides, but must collect, record, and return to the issuer all shipping tags; in addition there must be applied in indelible ink to the underside of each hide a mark of the tanner's choosing that has been approved by the Service, placed at least every one-half inch throughout its surface area.


   (a) * * *
   (3) * * *
   (ii) * * *
   (C) * * *

15. Paragraph (a)(3)(iii)(C)(6) of §17.42 is revised to read as follows:
   (a) * * *
   (3) * * *
   (iii) * * *
   (C) * * *
   (6) Every licensee must maintain complete and accurate records of all American alligator hides, including all State tags.

16. Paragraph (a)(4) of §17.42 is revised to read as follows:
   (a) * * *
   (4) Products of American alligator which have been manufactured by licensed fabricators and marked in accordance with paragraph (a)(3)(iii)(C)(4) of this section may be transported, shipped, delivered, carried, or received in interstate commerce in the course of a commercial activity, and may be sold or offered for sale in interstate commerce.

17. Paragraph (a)(5) of §17.42 is revoked.
   (a) * * *
   (5) [Revoked]

NOTE.-The Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.


LYNN A. GREENWALT,
Director, Fish and Wildlife Service.
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