

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Parts 13 and 17****Revision of the Special Rule on the American Alligator****AGENCY:** Fish and Wildlife, Interior.**ACTION:** Final rule.

**SUMMARY:** The Service revises the special rule on the American alligator, 50 CFR 17.42(a), promulgated under authority of the Endangered Species Act of 1973. Fabricators, who are engaged in the business of manufacturing products from American alligator leather, are no longer required to obtain a permit issued under the special rule. To insure that fabricators receive only lawfully taken American alligator hides, buyers and tanners engage in trade in American alligators remain highly regulated. The sale of meat and other parts except hides from lawfully taken American alligators is no longer restricted to the State where the taking occurs. These items may be sold nationwide if such sale is in accordance with the laws and regulations of: (1) The State in which the taking occurs, and (2) the State in which the sale occurs.

**EFFECTIVE DATE:** November 25, 1980.

**FOR FURTHER INFORMATION CONTACT:** John T. Webb, Division of Law Enforcement, U.S. Fish and Wildlife Service, Suite 300, 1375 K Street, NW., Washington, D.C. 20005, telephone: (202) 343-9242.

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

On August 8, 1980 (45 FR 52849), under authority of the Endangered Species Act of 1973 (hereinafter ESA), 16 U.S.C. 1533(d), the Service proposed to revise the special rule on the American alligator (*Alligator mississippiensis*), 50 CFR 17.42(a). Briefly, the Service proposed to revise the special rule to: (1) eliminate the permit requirement for fabricators under the special rule, and (2) allow the interstate sale of American alligator meat and parts other than hides.

**Summary and Analysis of Comments and Actions Taken**

The proposed rule invited comments for 30 days ending September 8, 1980. Comments were received from the following sources: Louisiana Department of Wildlife and Fisheries (Joseph V. Colson), Florida Game and Fresh Water Fish Commission (Col. Robert M. Brantly), South Carolina Wildlife and Marine Resources

Department (James A. Timmerman, Jr.), Fund for Animals (Lewis Regenstein), and National Alligator Association (J. Don Ashley). The following summarizes the comments, suggestions, and actions taken.

1. *Definitions.* No comments were received on any of the proposed definition changes. However, the definition of "American alligator" has been reworded to identify more clearly the three separate populations of the species which are covered by the special rule.

2. *Prohibitions and Permits.* Four of the commenters supported as proposed the interstate sale of meat and parts except hides, and the deletion of the permit requirement for fabricators.

One commenter believed the proposal may threaten the future survival of the American alligator by relaxing the safeguards against poaching and loosening enforcement procedures. The Service believes a narrower, sharper focus for law enforcement will be achieved by concentrating Service enforcement resources on discrete points where trade is funneled. The Service will still closely monitor permittees, and vigorously enforce the taking prohibitions applicable to the species with the cooperation of State and local governments and private citizens. These measures appear to have reduced poaching and other illegal activities significantly and compliance with the special rule has been substantial.

Several commenters believed some of the application requirements for a buyer or tanner permit were unnecessary. These requirements, which are found at 50 CFR 17.42(a)(3)(A)(1)-(7), provide information which is necessary for effective permit administration. Because this information is requested only once, when an initial application is submitted, permittees are not unduly burdened by these requirements.

After reviewing all of the comments, the Service has decided that no substantive changes in the proposed rule are necessary. However, editorial changes and minor clarifications have been made, including the substitution of singular for plural nouns.

**Refunds Available to Fabricators for Unused Marks (Labels)**

Because fabricators no longer are required to obtain a permit under the special rule or affix a mark provided by the Service to each product made of American alligator hide, the Service is offering to refund the purchase price of any unused marks (labels) to fabricators. Information about refunds

may be obtained by writing to: Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203.

**National Environmental Policy Act**

The Service also solicited comments on the draft environmental assessment prepared in conjunction with the proposal. No comments were received. The final assessment 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 final rule 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.

**Effective Date of This Rule**

Because this rule is a substantive rule which grants or recognizes an exemption or relieves a restriction, the Service has determined to make it effective immediately under authority of 5 U.S.C. 553(d)(1).

**Classification and Regulatory Analysis**

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

**Regulations Promulgation:**

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

**PART 13—GENERAL PERMIT PROCEDURES**

1. The authority citation for Part 13 reads as follows:

**Authority:** Lacey Act, 62 Stat. 687, as amended, 63 Stat. 89, 74 Stat. 753, and 83 Stat. 281 (16 U.S.C. 42-44); Black Bass Act, sec. 5, 44 Stat. 576, as amended, 46 Stat. 846 (16 U.S.C. 852c); Migratory Bird Treaty Act, sec. 3, 40 Stat. 755 (16 U.S.C. 704); Bald Eagle Protection Act, sec. 2, 54 Stat. 251 (16 U.S.C. 668a); Tariff Classification Act of 1962, 19 U.S.C. 1202, "Schedule 1, Part J5D, Headnote 2(d), Tariff Schedules of the United States," 76 Stat. 72, Endangered Species Act of 1973, section 11(f), 87 Stat. 884; Fish and Wildlife Act of 1956, sec. 13(d), 86 Stat. 905 amending 85 Stat. 480 (16 U.S.C. 742j-1); Marine Mammal Protection Act of 1972, sec. 112(a), 86 Stat. 1042 (16 U.S.C. 1382); Act of August 31, 1951, Ch. 376, Title 5, section 501, 65 Stat. 290 (31 U.S.C. 483a).

§ 13.12 [Amended]

2. Amend § 13.12(b) by amending "American alligator—buyer, tanner, or fabricator . . . . . 17.42(a)" to read "American alligator—buyer or tanner . . . . . 17.42(a)."

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

3. The authority citation for Part 17, reads as follows:

Authority: Endangered Species Act of 1973 (16 U.S.C. 1531–1543).

4. 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*, whether alive or dead, and any part, product, egg, or offspring thereof occurring; in captivity wherever found, in the wild wherever the species is listed under § 17.11 as threatened—similarity of appearance, or in the wild in Florida and in the 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 10; thence west on U.S. Interstate Highway 10 to junction with U.S. Interstate Highway 12; thence west on U.S. Interstate Highway 12 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 Houston, 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 buying a raw, green, salted, or otherwise untanned hide of an American alligator.

"Tanner" shall mean a person engaged in processing a raw, green, salted, or crusted hide of an American alligator into leather.

(2) *Prohibitions*. The following prohibitions apply to the American alligator, except as provided by permits available under paragraph (a)(3) of this section.

(i) *Taking*. No person may take any American alligator, except:

(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 an American alligator 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. Any taking pursuant to this paragraph (a)(2)(i)(A) must be reported in writing to the Director (OES), Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, within five (5) days.

(B) Any employee or agent of the Service or of a State conservation agency which is operating under a cooperative agreement with the Service in accordance with section 6(c) of the Act which covers American alligators may, when acting in the course of official duties, take an American alligator to carry out scientific research or conservation programs.

(C) Any person may take an American alligator in the wild wherever listed under § 17.11 as threatened—similarity of appearance in accordance with the laws and regulations of the State in which the taking occurs, subject to the following conditions:

(1) Any raw, green, salted, or otherwise untanned hide of such

alligator is sold or otherwise transferred only to a person holding a valid Federal permit to buy hides, issued under paragraph (a)(3) of this section;

(2) Any meat or other part except the hide is sold or otherwise transferred only in accordance with the laws and regulations of the State in which the taking occurs and the State in which the sale or transfer occurs;

(3) The hide is tagged by the State where the taking occurs with a noncorrodible, serially numbered tag which identifies the State where the taking occurs;

(4) The tag number, length of skin, type of skin (whether belly or hornback) and date and place of the specimen's taking are recorded by the State; and

(5) A tag or label is affixed to the outside of any package or container used to ship an American alligator which:

(i) Identifies its contents as American alligator hides, meat, or other parts,

(ii) Indicates the quantity of each, and

(iii) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued under § 14.83 of this chapter.

(D) When an American alligator is taken by Federal or State officials in accordance with paragraphs (a)(2)(i) (A) or (B) of this section the hide, meat, and other parts may be sold by their respective agencies, subject to the following conditions:

(1) Any raw, green, salted, or otherwise untanned hide of such alligator is sold or otherwise transferred only to a person holding a valid Federal permit to buy hides, issued under paragraph (a)(3) of this section;

(2) Any meat or other part except the hide is sold or otherwise transferred in accordance with the laws and regulations of the State in which the taking occurs and the State in which the sale or transfer occurs;

(3) The hide is tagged by the State where the taking occurs with a noncorrodible, serially numbered tag which identifies the State where the taking occurs;

(4) The tag number, length of skin, type of skin (whether belly or hornback) and date and place of the specimen's taking are recorded by the State; and

(5) A tag or label is affixed to the outside of any package or container used to ship an American alligator which:

(i) Identifies its contents as American alligator hides, meat, or other parts.

(ii) Indicates the quantity of each, and

(iii) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued under § 14.83 of this chapter.

(ii) *Unlawfully taken alligators.* No person may possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any American alligator taken unlawfully.

(iii) *Import or export.* No person may import or export any American alligator, except that a hide which bears the noncorrodible, serially numbered tag attached by the State where the taking occurs and a manufactured product of a lawfully taken American alligator may be imported or exported in accordance with Part 23 of this chapter.

(iv) *Commercial transactions.* No person may deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce, any American alligator, except:

(A) A fully tanned hide which bears the noncorrodible, serially numbered tag attached by the State where the taking occurs and a manufactured product of a lawfully taken American alligator may be delivered, received, carried, transported, or shipped in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, and may be sold or offered for sale in interstate or foreign commerce.

(B) Any meat or other part except the hide from a lawfully taken American alligator which is sold or otherwise transferred in accordance with the laws and regulations of the State in which the taking occurs and the State in which the sale or transfer occurs may be delivered, received, carried, transported, or shipped in interstate commerce, by any means whatsoever and in the course of a commercial activity, and may be sold or offered for sale in interstate commerce.

(3) *Permits.*—(i) *General.* Permits are available under § 17.32 (Permits—general) for all of the prohibited activities referred to in paragraph (a)(2) of this section. 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) for any of the prohibited activities referred to in paragraph (a)(2) of this section.

(iii) *Buyer or tanner.* 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 or tanner, authorizing the permittee to engage in any activity prohibited by paragraph (a)(2) of this section.

(A) *Application requirements.* An application for a permit 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 or tanner. 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) for which the permit is desired;

(2) A description of the applicant's business organization including:

(i) The location, mailing address, and description of the physical plant in which the activities under the permit will occur,

(ii) Experience with American alligators, if any, over the previous five years,

(iii) The names and addresses of all partners, directors, officers, shareholders in a close corporation, or other parties in interest in the business organization identified by their relationship to the business organization,

(iv) The name and address of any business organization affiliated with the applicant's business organization;

(v) The location where books or records concerning any recordkeeping required by paragraph (a)(3) of this section will be kept.

(vi) The location where inventories of American alligator hides and hides of any other species of the Order Crocodylia will be stored, and

(vii) The name, address, and telephone number of the person authorized to make books or records, or inventories available for examination by Service officials;

(3) A description, including samples, of the applicant's present or proposed system of inventory control and bookkeeping capable of insuring accurate accounting for the following items:

(i) All American alligator hides, and

(ii) All hides of any other species of the Order Crocodylia;

(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 partner, director, officer, principal, employee, agent, shareholder in a close corporation, or other party in interest in

the business organization or any other business organization affiliated 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 as "Appendix I" in § 23.23 of this chapter, to the extent records of such dealings are available;

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

(7) A foreign applicant must provide the name and address of an agent located in the United States upon whom legal process may be served; each applicant must include a certified copy of the power of attorney appointing such an agent and a certified copy of the written consent of such agent so appointed.

(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 buyer or tanner permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this chapter, the applicant's reliability and apparent ability and willingness to maintain and disclose accurate inventory and bookkeeping records of all American alligator hides, 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 chapter, each permit issued under paragraph (a)(3)(iii) of this section is subject to the following special conditions:

(1) A permittee may not buy or tan any American alligator hide except one which was imported, exported, taken, sold, offered for sale, delivered, carried, transported, or shipped in accordance with paragraph (a)(2) of this section;

(2) A permittee may sell, offer for sale, deliver, carry, transport, or ship a raw, green, salted, or otherwise untanned American alligator hide only to a holder of a valid Federal permit issued under paragraph (a)(3)(iii) of this section;

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

(4) A permittee must maintain complete and accurate inventory control and bookkeeping records in accordance

with the provisions of § 13.46 of this chapter for all transactions with American alligators and other species of the Order Crocodylia. For all such transactions, a permittee also must maintain on file a copy of any permit or other document required by Part 23 of this chapter or any other State, Federal, or foreign law:

(5) A permittee must file a written report in English with the Director by March 31 of each year concerning all transactions during the preceding calendar year ending December 31 involving American alligators and other species of the Order Crocodylia listed as "Appendix I" in § 23.23 of this chapter (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) A permittee may not transport or ship any American alligator hide unless a tag or label is affixed to the outside of any package or container used to transport or ship the hide which:

(i) Identifies its contents as American alligator,

(ii) Indicates the quantity, and

(iii) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued under § 14.83 of this chapter;

(7) A buyer and/or tanner must leave the State tag on each hide; and

(8) A foreign permittee must maintain an agent in the United States upon whom legal process may be served; in the event of the death or inability to serve, or the resignation or removal of such person, the permittee shall immediately appoint a successor.

(D) *Duration of permits.* The duration of a permit 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 activity prohibited by paragraph (a)(2) of this section with a live American alligator which has been born in captivity or lawfully placed in captivity.

(A) *Application requirements.* An application for a permit 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). 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 alligator for which a permit is sought has been held in captivity and was 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) of this section, 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 chapter, 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.* Each permit issued under this paragraph (a)(3)(iv) is subject to the general conditions set forth in Part 13 of this chapter. In addition, any permit which authorizes the taking of an American alligator is subject to the following special conditions:

(1) Any raw, green, salted, or otherwise untanned hide of such alligator is sold or otherwise transferred only to a person holding a valid Federal permit to buy hides, issued under paragraph (a)(3) of this section;

(2) Any meat or other part except the hide is sold or otherwise transferred only in accordance with the laws and regulations of the State in which the taking occurs and the State in which the sale or transfer occurs;

(3) The hide is tagged by the State where held in captivity with a noncorrodible, serially numbered tag which identifies the State where the taking occurs;

(4) The tag number, length of skin, type of skin (whether belly or hornback) and date and place of the specimen's taking are recorded by the State;

(5) A tag or label is affixed to the outside of any package or container used to ship an American alligator which:

(i) Identifies its contents as American alligator hides, meat, or other parts,

(ii) Indicates the quantity of each, and

(iii) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid

permit issued under § 14.83 of this chapter.

(6) Complete and accurate inventory control, bookkeeping, and other appropriate records must be maintained in accordance with the provisions of § 13.46 of this chapter concerning any taking of, or transaction involving, an American alligator; and

(7) The permittee must file a written report with the Director by 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 a permit issued under this paragraph (a)(3)(iv) shall be designated on the face of the permit.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

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