

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal to Reclassify the Legal Status of the American Alligator in Florida to Threatened Due to Similarity of Appearance

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to reclassify the American alligator (*Alligator mississippiensis*) in Florida, where the species is presently classified as threatened, to similarity of appearance under provisions of the Endangered Species Act of 1973, as amended. This proposed change is based on evidence that the species is not biologically threatened, a legal status defined for species believed to be likely to become endangered within the foreseeable future. Productive alligator populations are well distributed throughout the State wherever suitable habitat occurs, with over 6,700,000 acres of wetland habitat currently occupied by the species. Reclassification of Florida alligators would reduce restrictions on the State for future management and research. Any harvests planned in Florida would have to be within constraints established by the Service's special rule on American alligators (50 CFR 17.42(a)) and existing State statutes and regulations. The Service seeks data and comments from the public on this proposal. The Service is requesting information on environmental impacts that would result from the proposed reclassification of the alligator in Florida.

DATES: Comments from all interested parties must be received by September 18, 1984. Public hearing requests must be received by August 6, 1984.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Jackson Endangered Species Field Station, Jackson Mall Office Center, Suite 318, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Wendell Neal (see ADDRESSES above) (601/960-4900), or Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

The American alligator (*Alligator mississippiensis*) occurs in varying densities in wetland habitats throughout the Southeast including all or parts of the following States: Alabama, Arkansas, Georgia, Florida, Louisiana, Mississippi, Oklahoma, North Carolina, South Carolina, and Texas. The alligator is a large wetland inhabitant of significant scientific and commercial value. Crocodylians such as the American alligator are the only extant representatives of the order Archosauria, and this species represents one of only two extant species of the genus *Alligator*. The crocodylians evolved as a group some 180-200 million years ago and show many advanced characteristics, such as a four-chambered heart, rudimentary diaphragm, and elaborate material care and behavior.

The alligator was first classified as endangered throughout its range in 1967 due to a concern over poorly or unregulated harvests. Subsequently, in response to Federal and State protection, the alligator recovered rapidly in many parts of its range, enabling the Service to undertake the following reclassification actions: (1) Reclassification to threatened by similarity of appearance in three coastal parishes of Louisiana, reflecting complete recovery (September 26, 1975—40 FR 44412); (2) Reclassification to threatened reflecting partial recovery, in all of Florida and certain coastal areas of South Carolina, Georgia, Louisiana, and Texas (January 10, 1977—42 FR 2071); (3) Reclassification to threatened by similarity of appearance, again reflecting complete recovery, in nine additional parishes of Louisiana (June 25, 1979—44 FR 37130); (4) Reclassification to threatened by similarity of appearance in 52 parishes in Louisiana, reflecting complete recovery (August 10, 1981—46 FR 40664); (5) Reclassification to threatened by similarity of appearance in Texas, reflecting complete recovery (October 12, 1983—48 FR 46332).

In June 1982, the Service began an additional status assessment of the alligator. This effort was begun in the State of Florida by a review of data and materials held by the Gainesville Wildlife Research Laboratory of the Florida Game and Fresh Water Fish Commission. The data with the most significant bearing on status of Florida alligators are found in results of night count surveys which have been conducted since 1971 in all major habitat types. These data are stored on

computer at the Wildlife Research Laboratory. Dr. C. L. Abercrombie, a biologist stationed at the laboratory, provided summaries and analyses of these unpublished data based on computer printouts of about 3,000 miles of survey lines. The Wildlife Research Laboratory also holds large quantities of data on population parameters for specific research areas, including Orange Lake, Lake Griffin, Newnans Lake, and Lochloosa Lake. In addition, in order to more fully understand Florida alligator data, a number of references were consulted, including Goodwin and Marion (1979:1980), Hines (1979), Dietz and Hines (1980) and Wood and Humphrey (1983). The most important of these are listed in the Reference section of this proposed rule.

The evaluation of past, current, and likely future alligator habitat status is based primarily on data obtained from the Fish and Wildlife Service's National Wetlands Inventory Station, St. Petersburg, Florida. These data are the best available and provide estimates of past and present acreage in various wetland habitat types.

The Service believes these data indicate that the American alligator in Florida is not likely to become endangered within the foreseeable future, and thus its current designation as a threatened species should be changed. However, because of the alligator's similarity of appearance to other endangered crocodylians and the fact that hides or other parts may occur in the same trade, it is necessary to maintain restrictions on commercial activities involving alligators taken in the State to insure the conservation of other alligator populations, as well as other crocodylians, that are threatened or endangered. This will be accomplished through restrictions in the Service's special rule on American alligators (50 CFR 17.42(a)). Section 4(e) of the Endangered Species Act authorizes the treatment of a species (or subspecies 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 so closely resembles in appearance an endangered or threatened species that enforcement personnel would have substantial difficulty in differentiating between listed and unlisted species; (b) that the effect of this substantial difficulty is an additional threat to the endangered or threatened species; and (c) that such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of the Act.

The Service already treats American alligators found in Louisiana and Texas as threatened because of their similarity of appearance to other American alligators, as well as other crocodilians, that are listed as threatened or endangered. Certain restrictions are imposed on commercial activities involving specimens taken in Louisiana and Texas to insure the conservation of other endangered or threatened alligators and other crocodilians. The Service now proposes to treat American alligators found in Florida as threatened due to similarity of appearance, and to impose similar restrictions on commercial activities involving specimens taken in Florida.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 Amendments—see proposal at 43 FR 36062, August 8, 1983)

set forth five factors to be used in determining whether to add, reclassify, or remove a species from the list of endangered and threatened species. These factors and their application to the American alligator (*Alligator mississippiensis*) in Florida are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* American alligator populations, in terms of both density and total numbers, are limited by the productivity and amount of available habitat. Florida has more alligator habitat than any other State within the alligator's range. The best available data on wetland habitat in Florida comes from the National Wetlands Inventory group of the Service, which is located in St. Petersburg, Florida. Although there are many publications on Florida wetlands, they lack the specificity found in these draft data. Table 1, below, depicts these estimates by habitat type according to Circular 39 (Shaw and Fredine, 1956), a Service publication which classifies wetland types.

and Fresh Water Fish Commission. The estimates were based upon night count survey data (Abercrombie, 1982), nuisance complaint records, and personal observation and knowledge by these biologists of the distribution and abundance of alligators in Florida.

Table 1 indicates that more than 6,700,000 acres of Florida wetland are occupied by alligators; this probably represents more than one-third of the total habitat occupied by the species throughout its range. A general summary of occupied habitats in Florida is as follows: fresh marsh—approximately 3,600,000 acres; wooded permanent water areas—1,200,000 acres; lakes—estimated to number 30,000 and comprising 1,700,000 acres; and rivers and streams—200,000 acres.

One habitat type, the palustrine emergent, which includes the Everglades and other freshwater marshes, has undergone loss of approximately 25 percent in the last 30 years due to drainage and conversion to agricultural use. Also, this habitat type has been rendered less productive as alligator habitat due to the construction of levee systems for flood control. However, the total amount of fresh marsh habitat still substantially exceeds 3 million acres and is likely to remain an abundant habitat type for the foreseeable future. The data also show losses occurring in saltmarsh and brackish areas, but these have never been important components of alligator habitat.

Florida's lake habitats, although smaller in total size than the fresh marshes, are highly productive, often having alligator densities well in excess of the marsh areas. In terms of available habitat, lakes are not being lost to man's activities, although residential buildup on some lakes cause an increase in potential human/alligator conflicts and some marshes associated with lakes are being drained. The streams of northern Florida contribute the least to the total Florida alligator population, due to the relative scarcity of suitable habitat.

Overall, Table 1 indicates that Florida currently has large amounts of alligator habitat, and this is likely to continue for the foreseeable future. Furthermore, State and Federal land holdings currently total 2,949,947 acres, much of which is occupied alligator habitat (Hines, 1979). Additional State acquisition of key wetland areas in south Florida has been authorized and new Federal acquisition is being considered. In summary, it is concluded that habitat loss does not pose a threat to the overall status of the American alligator in Florida within the foreseeable future.

TABLE 1.—DRAFT DATA ON WETLAND INVENTORY IN FLORIDA—FROM NATIONAL WETLAND INVENTORY, U.S. FISH AND WILDLIFE SERVICE, ST. PETERSBURG, FLORIDA, EXCEPT AS OTHERWISE NOTED

Habitat type	1950 inventory (acres)	Late 1970's inventory (acres)	Change (acres)	Estimated occupancy by alligators (percent and acres)
Palustrine Forested: Cir. 39 types 1, 7, 8; bottomland hardwood forests: seasonally flooded basins or flats; cypress-gum swamps, bayheads, bogs, pocosins.	4,820,196 ±367,306	4,743,409 ±357,638	-76,787 ±76,539	15 712,000
Palustrine Scrub-Shrub: Cir. 39 type 6; buttonbush type.....	1,093,603 ±196,261	889,669 ±144,546	-203,934 ±168,886	50 445,000
Palustrine Emergent: Cir. 39, types 2, 3, 4; inland fresh, shallow marshes.....	4,691,257 ±459,259	3,635,037 ±397,494	-1,056,220 ±253,794	100 3,600,000
Estuarine Intertidal: Cir. 39 type 20; mangrove swamps.....	442,689 ±68,972	427,149 ±59,921	-15,539 ±15,030	5 21,000
Palustrine Open water: Cir. 39 type 5; water adjacent to marshes, cypress domes, small water bodies less than 20 acres.	75,102 ±11,343	116,052 ±13,376	+40,950 ±9,662	100 116,000
Lacustrine: Lakes larger than 20 acres in size.....	1,785,027 ±381,517	1,835,780 ±383,605	+50,753 ±54,556	85 1,560,000
Estuarine Intertidal Emergent: Cir. 39 types 16, 17, 18; coastal saltmeadows; salt-marsh—regularly and irregularly flooded.	283,202 ±57,808	244,507 ±53,484	-38,695 ±17,300	10 24,000
Palustrine (other): Cir. 39 type 5 and to some degree 4; all aquatic beds (lily pads, hydrilla).	8,026 ±2,438	34,993 ±25,056	+26,967 ±24,926	100 35,000
Rivers and Streams: Stream body only; taken from data provided by Division of Water Resources and Conservation; Florida Board of Conservation, Tallahassee, FL.	200,000			100 200,000
Totals.....	13,599,103 ±1,544,044	11,810,680 ±1,455,090		6,713,000

Trends are depicted as comparisons between the 1950 inventory and the late 1970's inventory. Because the data are derived through a sampling scheme, all figures are estimates with each carrying

a confidence interval. The table also shows an estimated occupancy rate by alligators. These estimates were made by Tommy Hines and Allen Woodward, biologists employed by the Florida Game

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The commercial demand for alligator products was responsible for overharvests which caused population declines in accessible habitats during the 1950's and 1960's. This problem was reversed primarily through a more effective protective mechanism brought about by the Lacey Act Amendment of 1969 which prohibited interstate commerce in illegally taken reptiles and their parts and products. This law provided Federal authority for dealing effectively with illegal activities in the market system. The Endangered Species Act of 1973 added heavy penalties which further enhanced the control of illegal taking. Vigorous enforcement by State and Federal authorities has been effective in controlling illegal activity.

The State of Florida contemplates expansion of existing alligator programs, which at this time are nuisance control and limited experimental harvests, to some form of sustained yield harvesting. Since uncontrolled harvesting was the reason for past over-exploitation in some areas, and sustainable yields from harvested populations are biologically limited, Florida is committed to harvests only to the extent permitted by available data. Such harvests will be strictly limited to insure against excessive harvests, as indicated by the State's approved Alligator Management Plan (Florida Game and Fresh Water Fish Commission, 1981). The only exception to this policy would be in extremely localized areas where potentially serious human/alligator conflicts exist; intentional over-harvests might occasionally be authorized for such situations to remove the threat to human safety and promote overall public tolerance of the species.

In developing these policies, the Florida Game and Fresh Water Fish Commission has conducted population surveys and instituted population modeling research aimed at testing the sustained yield concept and the changes in population dynamics which may result from harvests. Data from this research are intended to fashion any future harvest to meet the Alligator Management Plan goal.

The results of the night counts conducted by the State in all major habitat types since the late 1960's illustrate the success of control of overharvest. These counts, along with

personal observations by many biologists and State nuisance complaints records, confirm that alligator populations are abundant and productive on a State-wide basis. For example, Orange Lake near Gainesville is considered by Florida alligator biologists to contain a healthy population of alligators. The lake serves as an alligator research area for the State. Alligators on this lake have been monitored for several years through repeated night counts and nest counts. Using the size-class frequency model developed by Taylor and Neal (1983), the average 90-100 nest count on Orange Lake can be shown to be associated

with an after-hatching alligator density of approximately one alligator per acre, or 8,000-10,000 total animals. Similar densities in many of Florida's lakes are not uncommon, according to State alligator biologists.

Table 2 depicts amounts of effort expended (miles/year) on night count surveys in seven Florida habitat types for the period 1974-81. The data base which contains the results of these surveys is on computer at the State Wildlife Research Laboratory in Gainesville. These survey routes are widely distributed throughout the State and represent the major habitat types occupied by alligators.

TABLE 2.—NUMBER OF MILES RUN PER YEAR FOR SEVEN HABITAT TYPES

Habitat type	Year							
	1974	1975	1976	1977	1978	1979	1980	1981
1. Open Lake.....	46.5	55.2	89.3	190.8	79.4	111.3	144.8	97.0
2. Riverine.....	27.4	59.8	106.0	129.2	129.7	134.9	134.5	58.6
3. Marsh.....	0	36.5	11.0	37.2	11.0	39.0	40.0	6.0
4. Canal, rural.....	15.8	42.9	52.2	77.7	107.0	121.0	121.0	48.3
5. Canal, urban.....	30.0	20.0	20.0	40.0	20.0	0	20.0	10.0
6. Phosphate pit.....	0	14.5	14.5	0	6.5	14.5	13.5	0
7. River marsh.....	0	0	10.5	0	60.3	50.3	60.3	70.4

Based on these counts, Abercrombie (1982) compared selected past and present densities (alligators/mile) of three size groups—small, medium, and large alligators—using 1977 as a break point for the comparisons.

TABLE 3.—A COMPARISON OF SMALL (2 TO 4 FT.) ALLIGATORS/MILE, BEFORE 1977 AND 1977-1981, BY HABITAT TYPES LISTED IN TABLE 2

Period	Average density by habitat type						
	1	2	3	4	5	6	7
Before 1977.....	2.80	0.45	3.78	0.99	0.10	0.14	1.33
1977-81.....	5.00	0.65	4.10	1.41	0.10	0.51	2.10
Percent change.....	+78	+77	-8	+42	0	+260	+58

TABLE 4.—A COMPARISON OF MEDIUM (4 TO 7 FT.) ALLIGATORS/MILE, BEFORE 1977 AND 1977-81, BY HABITAT TYPE

Period	Average density by habitat type						
	1	2	3	4	5	6	7
Before 1977.....	1.70	0.48	2.90	0.88	0.12	0.32	0.19
1977-81.....	2.10	0.60	3.30	1.36	0.19	0.63	1.14
Percent change.....	+24	+26	+14	+55	+58	+97	+500

TABLE 5.—A COMPARISON OF LARGE (7 FT. +) ALLIGATORS/MILE, BEFORE 1977 AND 1977-81, BY HABITAT TYPE

Period	Average density by habitat type						
	1	2	3	4	5	6	7
Before 1977.....	0.41	0.21	0.45	0.13	0.02	0.11	0.19
1977-81.....	0.68	0.19	1.06	0.34	0.07	0.21	0.41
Percent change.....	+114	-02	+126	+161	+250	+91	+116

These comparisons show increasing counts for virtually all size classes and habitat types. Table 6 compares pre- and post-1977 size composition found in these counts for 6 habitat types.

TABLE 6.—A COMPARISON OF ALLIGATOR SIZE COMPOSITION FROM NIGHT COUNTS MADE BEFORE 1977 AND 1977-81, BY HABITAT TYPE

Habitat		Small (2' to 4') (per- cent)	Medium (4' to 7') (per- cent)	Large (7' +) (per- cent)
1	Pre-1977	51.1	34.1	8.6
	1977-81	63.0	25.9	11.1
2	Pre-1977	40.8	41.2	18.0
	1977-81	48.5	38.9	12.5
3	Pre-1977	53.2	40.4	6.3
	1977-81	45.3	43.7	11.3
4	Pre-1977	49.7	43.9	6.3
	1977-81	45.3	43.7	11.0
5	Pre-1977	41.7	50.0	8.3
	1977-81	28.1	53.1	18.8
6	Pre-1977	24.3	56.8	18.9
	1977-81	37.9	46.7	15.4

Although certain differences are noted in size composition, none are major and no trends are apparent.

Average counts of alligators/mile from Florida lakes and marshes can be compared to counts made in the same habitat types in Louisiana. These averages include data from Tables 3, 4, and 5 as well as alligators that could not be estimated as to size-class which are omitted from the Tables. Florida lakes averaged 11.9 alligators/mile prior to 1977 and 13.8/mile from 1977-81. Florida marshes averaged 11.3/mile prior to 1977 and 13.3/mile from 1977-81. In comparison, Louisiana lakes averaged 1.4/mile during 1971-78 and marshes averaged 5.09/mile in 1977 and 1978. These comparisons of average counts are influenced by a variety of factors and are open to various interpretations. Thus, these numbers do not necessarily indicate that Florida alligator densities are much greater than Louisiana densities. However, they do indicate that Florida night counts show extremely high densities of alligators.

Abercrombie (1982) provides some evidence of an increase in larger alligators, which might suggest recovery. Discussions with State biologists indicate that an actual recovery in numbers is likely limited to those accessible areas which were at one time subject to heavy poaching. This is the result of successful control of all but insignificant levels of illegal activity in Florida. The resilience of alligators which are protected following a period of overexploitation is referred to by Craighead (1969), who studied alligators in the Everglades, and by McIlhenny (1935), in describing three newly established wildlife refuges in south

Louisiana that had been previously subjected to excessive harvests.

Based on the preceding data, some generalizations may be made: (a) Density (alligators counted/mile) shows increases when the pre-1977 and post-1977 periods are compared; (b) small, medium, and large size classes are all well represented, indicating that the populations being surveyed are successfully reproducing and that survivorship is adequate; (c) the survey routes confirm that the species is well distributed throughout Florida's major habitat types; and (d) there are no significant trends or major shifts in composition of the population by size class, which could otherwise indicate the effects of illegal exploitation (Cott, 1961).

C. Disease or predation. Alligators suffer various types of disease and predation, as do most wildlife species, but these factors are a natural part of the alligator's existence and do not threaten the continued welfare of the species.

D. The inadequacy of existing regulatory mechanisms. The adequacy of existing Federal and State regulations for protection and management of the alligator is reflected by the healthy status of the alligator in Florida as described above. The following laws and regulations are germane: (1) The 1969 Amendment to the Lacey Act, which extended Federal law enforcement authority to interstate movement of reptiles and their products; (2) The Endangered Species Act of 1973, which provided mandatory protections for alligators in Florida while they were listed as endangered from 1973-78, and which authorizes the current special rules for threatened (including similarity of appearance) alligators, governing taking and commerce in alligator products; (3) The annual findings of the Scientific and Management Authorities of the Service, which govern the export of species, including the American alligator, listed on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); (4) State of Florida statutes which govern taking and commerce in alligators; (5) Regulations of the Florida Game and Fresh Water Fish Commission establishing and governing nuisance control programs, alligator farms, and harvests; and (6) The Florida Alligator Management Plan. Florida statutes and regulations provide for complete adherence to the Service's special rule on American alligators.

As discussed above, the State has adopted an Alligator Management Plan and is conducting an extensive research

program designed to insure against overharvest of the species. Harvest rates or quotas which would result from the sustained yield program would be based on preharvest surveys and tag allotments, or drawings for public areas designed to achieve harvests within estimated sustainable yields. The research program cited above should insure that management programs are effected using the best scientific data and techniques available. Also, the State fills the role of recordkeeper, dealer, and marketer for hides taken during nuisance control and experimental harvest programs. The State will continue this role as seasons are expanded. The only self-marketing done by hunters at this time is the sale of meat and other products such as teeth and skulls. Florida statutes and regulations and the Service's special rule on American alligators regulate commerce in meat through a permitting system designed to preclude unmanaged and therefore illegal marketing of alligator meat.

E. Other natural or manmade factors affecting its continued existence. Although factors such as nest flooding or drought may affect alligators, none of these are known to have limited populations on a State-wide basis nor are they expected to become threatening to State-wide populations in the future.

The Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to reclassify the American alligator to threatened due to similarity of appearance. Criteria for removing species from the list of endangered or threatened species are found at 50 CFR 424.11(d). They include extinction, recovery of the species, and original data for classification in error. This proposal is based upon evidence that the species is not biologically threatened in Florida. Past reclassification actions of the American alligator have been based upon partial or complete recovery. This proposal recognizes that some populations have shown increases (Wood and Humphrey, 1983). However, it also recognizes that on a State-wide basis little direct evidence of abundance exists which conclusively demonstrates an overall increase in alligator populations. The original listing of the American alligator as an endangered species occurred in 1967. The best available data with a bearing on status at that time were limited and highly subjective, providing little information on actual distribution and abundance.

Current data on the alligator in Florida, though still somewhat subjective, provide sufficient evidence that the species does not warrant retention on the Federal list as biologically threatened, a classification intended for species which are believed likely to become endangered within the foreseeable future.

Night count data on Florida alligators reveal high densities compared to similar Louisiana data from populations which are considered recovered. Also, available night count data confirm that the species is well distributed, has good reproduction, and shows no evidence of trends in size-class ratios which could indicate that populations were experiencing major changes.

Florida alligators occupy an estimated 6.7 million acres of habitat; although some habitat loss is occurring, particularly in south Florida, given the extensive amounts of habitat in Florida, this loss will not threaten the species' existence within the foreseeable future. The Service believes that sufficient regulatory controls and mechanisms are in place to ensure against substantial losses of Florida alligators to illegal activity. Further, it is believed that the comprehensive commitment of the Florida Game and Fresh Water Fish Commission to research and management involving this species will ensure continued healthy alligator populations in the State.

Similarity of Appearance

Section 4(e) of the Endangered Species Act authorizes the treatment of a species 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 so closely resembles in appearance an endangered or threatened species that enforcement personnel would have substantial difficulty in differentiating between listed and unlisted species; (b) that the effect of this substantial difficulty is an additional threat to the endangered or threatened species; and (c) that such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of the Act.

With regard to the American alligator in Florida, the Service finds that each of these factors apply. There is little morphological geographic differentiation within the American alligator, which results in Florida specimens being virtually indistinguishable from live animals, or parts or products of alligators, in other parts of the range where the species is listed as endangered or threatened. In addition, while live alligators are readily

distinguished from other crocodylians that are listed under the Act, at least by specialists, untrained enforcement personnel could have considerable difficulty in making correct species identification which could hamper enforcement efforts. In addition, small parts and products of processed crocodylian leather are nearly impossible to distinguish when made into goods, thus hampering the identification of legal alligator products from those of endangered or threatened crocodylians. Such identification difficulties could result in allowing illegal trade in endangered crocodylian products to enter markets and thus further jeopardize these species.

By listing the American alligator under the similarity of appearance provisions of the Act, coupled with the special rules for American alligators as specified in § 17.42, the Service believes that enforcement problems can be minimized while at the same time ensuring the conservation of listed populations of the American alligator and other crocodylians. The similarity of appearance provisions of the Act have proven effective in the State of Louisiana where various populations of the species have been listed as threatened by similarity of appearance since 1975.

Critical Habitat

Critical habitat for the American alligator was not designated at the time of listing and has not been since designated. Therefore, this proposed rule, if finalized, will have no effect on critical habitat for this species.

Effects of Rule

This proposal, if made final, would change the alligator in Florida from its current status of threatened to a status of threatened due to similarity of appearance. It would be a formal recognition by the Service of a biologically secure status of the American alligator in a part of its range. A final rule would result in removal of Federal agency responsibilities under Section 7 of the Endangered Species Act. No significant adverse effects of the status of the species are expected to occur from this removal.

A final rule from this proposal would make available to the State of Florida the option of expanding harvest of alligators to additional areas. If the State elects to expand its harvest, these harvests could be expected to increase at a level commensurate with development and implementation of the State research and management program. All taking and commerce in alligators and their parts and products

would be regulated by the Service's special rule on American alligators (50 CFR 17.42(a)), as well as other applicable controls such as the Lacey Act (16 U.S.C. 3371 *et seq.*), which prohibits interstate commerce in illegally taken wildlife or their products.

Increased harvest of alligators is expected to result in an increased volume of alligator exports, although the magnitude of this increase cannot be predicted at this time. The Service has previously expressed its concern about the effects of increased exports on other endangered crocodylians found in international trade. International trade in alligator products is presently subject to the restrictions of CITES, the Service's implementing regulations (50 CFR Part 23) and general wildlife exportation requirements (50 CFR Part 14). Previous determinations by the Service's Scientific and Management Authorities have concluded that export of alligators taken in Louisiana and Florida would not be detrimental to the survival of the alligator or other endangered crocodylians. The Service will continue to review this possible impact and will take appropriate action if evidence indicates that restrictions are warranted. This proposed action, if completed, would not be an irreversible commitment on the part of the Service. The action is reversible and relisting is possible if the status of the species changes or if the State materially changes its plans or actions in a way that may threaten the species. The Service will continue to monitor and review the State's management program.

Public Comments Solicited

The Service intends that any final rule adopted 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 this proposed rule are hereby solicited. Comments are sought particularly concerning:

- (1) Biological, commercial, or other relevant data concerning any threat (or lack thereof) to the American alligator in Florida; and
- (2) Additional information concerning the range and distribution of this species.

Final promulgation of regulations on the American alligator in Florida will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of

a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to the Service's Jackson Endangered Species Field Station (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 CFR 49244).

Literature Cited

The following documents were used in the preparation of this proposed rule. These and other documents supplying background information including all unpublished data are on file at the Service's Jackson Endangered Species Field Station (see **ADDRESSES** section).

Abercrombie, C.L. 1982. Summaries of selected night count data and computer printouts of Florida night count surveys. Unpublished data from Wildlife Research Lab., Florida Game and Fresh Water Fish Commission, Gainesville.
 Abercrombie, C.L. 1982. Survivorship curves and computer model designed to read out effects of various harvest strategies. Unpublished data from Wildlife Research Lab., Florida Game and Fresh Water Fish Commission, Gainesville.
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Uganda and Northern Rhodesia. Trans. Zool. Soc., London. 29:211-337.
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Author

The primary author of this proposed rule is Mr. Wendell Neal of the Service's Jackson Endangered Species Field Station (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened Wildlife, Fish, Marine mammals, and Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

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:

1. The authority citation for Part 17 reads as follows:
 Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).
2. It is proposed to amend § 17.11(h) by revising listing of the American alligator under "Reptiles" in the List of Endangered and Threatened Wildlife as follows:

§ 17.11 Endangered and threatened wildlife.

• • • • •
 (h) • • •

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Reptiles:							
Alligator, American.....	<i>Alligator mississippiensis</i>	Southeastern U.S.A.	Wherever found in wild except those areas where listed as threatened as set forth below.	E.....	1, 11, 51, 60, 113.	NA.....	NA
Alligator, American.....	do.....	do.....	U.S.A. (Certain areas of GA, SC, and as set forth in sec. 17.42(a)(1).	T.....	20, 47, 51, 60	NA.....	17.42(a)
Alligator, American.....	do.....	do.....	U.S.A. (LA, TX, FL)	T(S/A).....	11, 47, 51, 60, 113, 134.	NA.....	17.42(a)
Alligator, American.....	do.....	do.....	In captivity wherever found.	T(S/A).....	11, 47, 51	NA.....	17.42(a)

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

§17.42 [Amended]

(a) American alligator (*Alligator mississippiensis*).

(1) Definitions. For purpose 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: (i) In captivity wherever found; (ii) in the wild wherever the species is listed under § 17.11 as Threatened by Similarity of Appearance (T[S/A]); or (iii) in the wild in the coastal areas of Georgia and South Carolina, 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 South Carolina State Highway 63 south of Walterboro, South Carolina; thence west on State Highway 63 to junction with U.S. Interstate Highway 95; thence south on U.S. Interstate Highway 95 (including incomplete portions) across the South Carolina-Georgia border to junction with U.S. Highway 82 in Liberty County, Georgia; 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 Georgia-Florida border eastward to the Atlantic Ocean.

"Buyer" shall mean a person engaged in buying a raw, green, salted, crusted 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.

Dated: June 7, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

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