

excluding fee, and the award fee shall not be less than _____% of the total estimated cost, excluding fee. The combined percentage of base and award fee does not exceed _____% of the total estimated cost, excluding fee.

(End of Clause)

Dated: August 7, 1995.

Jeanette Brown,

Acting Director, Office of Acquisition Management.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

RIN 1018-AC72

Export of American Alligators Taken in 1995 Through 1997

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain animal and plant species. As a general rule, exports of animals and plants listed on Appendix II of CITES may occur only if a Scientific Authority has advised a permit-issuing Management Authority that such exports will not be detrimental to the survival of the species and if the Management Authority is satisfied that the animals or plants were not obtained in violation of laws for their protection. Based on documentation presented for consideration by the CITES Parties in 1983, the U.S. Fish and Wildlife Service (Service) has determined that the American alligator is listed on Appendix II for reasons of similarity in appearance under Article II.2(b) of CITES as well as the potential threat to the species survival under CITES Article II.2(a).

On December 27, 1994, the Service published a notice (59 FR 66510) proposing to grant export approval for legally taken American alligators, alligator meat, parts, and products from previously approved States for the 1995-1997 harvest seasons.

This document announces the final findings and rule by the U.S. Scientific Authority and Management Authority that approve the export of American alligators harvested during the 1995-1997 harvest seasons from certain States previously approved for such export for

the 1992-1994 harvest seasons and for the State of Arkansas which was previously approved for the 1994 harvest season. This rule also stipulates that monitoring procedures previously established for this species be continued.

In addition, references in the regulation concerning the manner in which tags are to be attached to American alligator hides (full skins) at the time of export and the conditions for export of parts and products have been clarified.

EFFECTIVE DATE: August 21, 1995.

FOR FURTHER INFORMATION CONTACT: Scientific Authority: Dr. Charles W. Dane, Office of Scientific Authority, Mail Stop: ARLSQ, Room 725, U.S. Fish and Wildlife Service, Washington, DC 20240; telephone (703) 358-1708; fax number (703) 358-2276.

Management Authority: Carol L. Carson, Office of Management Authority, U.S. Fish and Wildlife Service, Room 420-C, 4401 N. Fairfax Dr., Arlington, Virginia 22203; telephone (703) 358-2095; fax number (703) 358-2280.

SUPPLEMENTARY INFORMATION: Since 1977, the Service has employed the rulemaking process to develop and issue decisions on the export of certain species under CITES. The reason for this approach is that it is more effective to issue general decisions on the export of all specimens of a species harvested in a given State and season than to issue such decisions separately for each permit application. This is especially true for CITES Appendix II species that are frequently exported, such as the American alligator. On May 26, 1992 (57 FR 21896), the Service published rules granting export approval for American alligators (*Alligator mississippiensis*) from specified States for the 1992-1994 harvest seasons. Subsequently, based on advice from the Office of Scientific Authority and the Office of Management Authority, the Service also approved the export of farm-raised American alligators from the State of Arkansas for the 1994 harvest season. The purpose of this announcement and rule is to allow the export of legally taken American alligators (hides, meat, parts, and products) for the 1995-1997 harvest years from previously approved States.

Scientific Authority Findings

Article II, paragraph 2, of CITES establishes that Appendix II shall include:

“(a) All species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulations in

order to avoid utilization incompatible with their survival; and

(b) Other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control.”

The American alligator is listed in Appendix II to respond both to problems of potential threat to the survival of the species [CITES Article II.2(a)] and of the similarity of appearance to other crocodylians that are threatened with possible extinction [CITES Article II.2(b)]. Article IV of CITES requires that an export permit for any specimen of a species included in Appendix II shall only be granted when certain findings have been made by the Scientific Authority and Management Authority of the exporting country. The marking of hides with specified tags, the marking and documentation of shipments of meat and parts, and the issuance of export permits specifically for American alligator parts and products are considered sufficient to address the issue of identification due to similarity of appearance between American alligators and other listed crocodylian species. Because the American alligator is listed partly due to the potential threat to its survival based on previous population declines that have been reversed in most parts of its range in the United States, the Service must determine that allowing exports and thereby stimulating harvest will not be detrimental to the survival of the species itself.

The U.S. Scientific Authority must develop advice on nondetriment for the export of Appendix II species in accordance with Section 8A of the Endangered Species Act (Act) of 1973, as amended. The Act states that the Secretary of the Interior, “shall base such determinations and advice given by him under Article IV of the CITES with respect to wildlife upon the best available biological information derived from professionally accepted wildlife management practices; but is not required to make, or require any State to make, estimates of population size in making such determinations or giving such advice.”

Guidelines developed for Scientific Authority advice on exports of American alligator under provisions of CITES Article II.2(a), are summarized as follows:

A. Minimum requirements for biological information:

(1) The condition of the population, including trends (the method of determination to be a matter of State choice) and population estimates where such information is available;

(2) Total harvest of the species for each harvest season;

(3) Distribution of harvest; and

(4) Habitat evaluation.

B. Minimum requirements for a management program:

(1) There should be a controlled harvest with the methods and seasons determined by the State;

(2) All hides, meat, and parts should be registered and marked; and

(3) Harvest level objectives should be determined annually by the State.

In applying these guidelines, the Service considers the following types of information on the conditions of the population: (a) a current estimate [if such information is available] of the total number of animals in the pre-harvest population derived by appropriate scientific censusing methodology; (b) a description of ongoing research being conducted to assess the distribution, abundance, or general condition of the species in the State with a summarization of results obtained, including results of any analysis of age structure or reproductive parameters; and (c) an assessment of long-term population trends of the species in the State and the relationship of these trends to habitat conditions, management practices, harvest pressure, and/or other factors.

Information on anticipated harvest to be considered by the Service includes:

(a) The number of animals to be harvested [by county or game management unit, if data are available at these local levels]; (b) the number of alligator hunters expected to be licensed; and (c) the time of the harvest season.

In the case of the American alligator, as with most other wild animals, the resource is monitored by a variety of techniques that yield information used in evaluating the condition of a population. As these data are accumulated over time, they reflect trends and call attention to changes in the populations. Habitat information, indices of population size, age and sex structure, and harvest information are all used to evaluate population status. Although the Endangered Species Act Amendments of 1982 provided that population estimates are not to be required for the approval of export of Appendix II wildlife, if such estimates are provided by the States or are otherwise available, they will be considered together with information of the types listed above in making findings on nondetriment.

In addition to considering the effect of trade on species or populations native to the United States that are being exported, the Scientific Authority will

also monitor the status of the American alligator to: (a) determine whether treatment of the American alligator remains appropriate; and (b) detect any significant downward trends in the populations and, where necessary, advise on more restrictive export controls in response to these trends. This monitoring and assessment will follow the same procedures adopted for other CITES-listed species (see 49 FR 590, January 5, 1984). The Service will review information on population status and harvest data relevant to the no detriment finding process from each export-approved State, as appropriate. When indicated by available information and a thorough review of accumulated data, a determination can then be made about the treatment of this species and whether the management program needs to be adjusted in a particular State.

The status of the American alligator has dramatically improved throughout its range since the species was placed under State and Federal control. One of the primary reasons for this improvement has been the effective management programs administered by State wildlife agencies. The Service expects these management programs to continue to be effective in conserving the American alligator in the future.

The export of American alligators taken in the 1992 through 1994 harvest seasons in certain States was previously approved by the Service (57 FR 21896). In that rule, the Service found that current information on the population status, management, and harvest available from the States included in the rule, along with other information collected by the Service, supported a finding that the export of American alligators taken in accordance with State regulations in those States and in those harvest seasons would not be detrimental to the survival of the species in those States approved for export. The Service's previous assessment of the status of the American alligator under the Endangered Species Act was sufficient to support reclassification of the species throughout its range from threatened to threatened for similarity of appearance. This reclassification was accomplished in different parts of its range as the biological status of the American alligator improved. The following rulemaking documents provide the rationale for the removal of threatened and endangered listings: 40 FR 44412, September 26, 1975; 42 FR 2071, January 10, 1977; 44 FR 37130, June 25, 1979; 46 FR 40664, August 10, 1981; 48 FR 46332, October 12, 1983; 50 FR

25672, June 20, 1985; and 51 FR 19760, June 2, 1986.

The Service's Office of Scientific Authority finds that current information on population status, management, and harvest levels relative to all the States in question fully supports a finding that the export of American alligators taken in accordance with Service-approved State regulations during the 1995-1997 harvest seasons will not be detrimental to the survival of the species in the States receiving export approval. Tagging of hides and the sealing and marking of meat and parts by Service-approved States of origin and documentation of shipments by the U.S. Management Authority provide assurance that export will not reduce the effectiveness of CITES in controlling trade in other species of crocodylians.

Management Authority Findings

Exports of Appendix II species are to be allowed under CITES only if the Scientific Authority advises that the exports will not be detrimental to the survival of the species and if the Management Authority is satisfied that the specimens were not obtained in contravention of laws enacted for their protection. The Service, therefore, must be satisfied that the American alligator hides, meat, or products being exported were not obtained in violation of State or Federal laws for their protection. For the American alligator, evidence of legal take is provided by Service-approved State export tagging and container marking programs.

To assist these State export tagging programs, the Service annually contracts for the manufacture and delivery of special CITES animal-hide tags for Service-approved, export-qualified States.

In a **Federal Register** notice, published on April 24, 1986 (51 FR 15548), the Service announced the introduction, use, and protection of a US-CITES tag symbol. This symbol appears on every Service-approved export tag to provide legal evidence of U.S. export approval for certain species listed on Appendix II of CITES. Hides marked with tags that lack this US-CITES symbol are not legally exportable from the United States.

Guidelines developed for Management Authority findings on State-managed American alligator export programs, under provisions of CITES Article IV.2(a), are summarized as follows:

(1) Current State alligator trapping, hide tagging, meat and parts processing, marking, and shipping regulations must be on file with the Office of Management Authority;

(2) Sample reporting forms, export tag, meat packing seal, parts tag, and specifications of the State's standard meat and parts package/container must be on file with the Office of Management Authority;

(3) The hide export tag must be durable and permanently locking, and must show the US-CITES logo, State of origin, year of take, species, and a unique serial number;

(4) The export tag, meat packing seal, and parts tag must be applied to all hides, meat, or parts within a minimum time after take or processing as specified by State law and such time should be as short as possible to minimize movement of untagged hides, meat, or parts;

(5) US-CITES tags must be inserted through the hide and permanently locked in place using the locking mechanism of the tag and in accordance with State requirements; other tags or seals must be permanently attached as mandated by the State;

(6) All American alligator harvesters and processors must be State registered;

(7) All American alligator hide, meat, and parts dealers must be State registered;

(8) All State-registered American alligator harvesters, processors, and dealers must make available their American alligator harvest and commerce data to the State on at least an annual basis, as specified by the State;

(9) State-registered American alligator dealers and State-licensed harvesters authorized to attach export tags must account for tags received and must return unused tags to the State within a time specified by the State after the taking season closes; and

(10) When manufactured hide products are to be exported from the United States, the CITES export tags that were removed from the hides contained in the products must be surrendered to the Service prior to export.

The Service's Management Authority has reviewed the American alligator export tagging programs of all previously approved States and has found that these programs fully meet the guidelines listed above.

The Service hereby approves exports of 1995-1997 harvested American alligators, hides, meat, and parts from the States receiving export approval on the grounds that both Scientific Authority and Management Authority export requirements are satisfied.

Multi-Year Findings

The Service has monitored existing State programs for the American

alligator in most of the previously approved States for many years and expects these States will continue to satisfy CITES requirements. States seeking for the first time to establish a harvest program for American alligators should apply for CITES export approval no later than January 2 of the year before they plan to initiate such a program. To ensure that export-approved States maintain successful programs and that export is not detrimental to the survival of the species, the Service plans to continue annual monitoring of State management and export marking programs through evaluation of State annual reports and export reports from U.S. ports. Annual State program reports should be provided to the Office of the Management Authority (address given above) for review no later than May 31 of each year.

This rule extends export approval for the States that were approved for export in previous years, including Arkansas which was approved for 1994, for the 1995-1997 harvest seasons. South Carolina's request to expand its nuisance alligator program to include the take of alligators from the wild on private lands under a State management system has been approved by letter for 1995. Extension of this approval beyond 1995 will be published separately in the **Federal Register** as a proposed rule.

The findings announced in this notice are effective immediately. It is the Service's opinion that a delay in the effective date of the regulations after this final rulemaking is published could adversely impact the species by preventing the international marketing of the hides and meat (where commercial harvest is an important part of the State conservation programs) thereby reducing the incentive for takers or dealers to comply with State requirements in the approved States. The Service, therefore, finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, for these regulations to take effect immediately under 5 U.S.C. 553(d)(1).

Public Comment

One written comment, from the State of Louisiana, was received during the comment period. The State agrees with the minor changes that were made to the previous rule and suggested that in § 23.57.3(b)(4) the following sentence be deleted: "Large individual parts shall have a parts tag permanently attached." With the deletion of this sentence, the rule would not be inconsistent with the requirements recently incorporated into

the CITES Universal Tagging System for the Identification of Crocodylians. Therefore, the Service agrees with the State of Louisiana and has deleted the sentence.

Effects of the Rule and Required Determinations

The Service has determined that this rule is not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act (42 U.S.C. 4321-4347), and therefore the preparation of an environmental impact statement is not required.

This rule was not subject to Office of Management and Budget review under Executive Order 12866. For the 1995-97 harvest years, the Service analyzed the impacts and again concluded that the 3-year rule was not a major rule and did not have significant economic effects on a substantial number of small entities as outlined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because the rule treats exports on a State-by-State basis and approves export in accordance with State programs, the rule would have little effect on small entities in and of itself. The rule would allow continued international trade in American alligators in accordance with CITES, and it does not contain any Federalism impacts as described in Executive Order 12612.

It also has been determined that this rule does not contain information collection requirements that require approval by OMB under 44 U.S.C. 3501 *et seq.*

List of Subjects in 50 CFR Part 23

Endangered and threatened species, Exports, Imports, Treaties.

PART 23—ENDANGERED SPECIES CONVENTION

Accordingly, the Service proposes to amend part 23 of title 50, Code of Federal Regulations, as set forth below:

1. The authority citation for Part 23 continues to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, 27 U.S.T. 108; and Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

2. In § 23.57, paragraph (a) is revised as follows:

§ 23.57 American alligator (*alligator mississippiensis*).

* * * * *

(a) 1979-1997 harvests (wild and farm-raised for each year unless noted).

	AL	AR	FL	GA	LA	MS	SC	TX
1979	-	-	+	-	+	-	-	-
1980	-	-	+	-	+	-	-	-
1981	-	-	+	-	+	-	-	-
1982	-	-	+	-	+	-	-	-
1983	-	-	+	-	+	-	-	-
1984	-	-	+	-	+	-	-	+
1985	-	-	+	-	+	-	-	+
1986	-	-	+	-	+	-	-	+
1987	-	-	+	-	+	-	-	+
1988	-	-	+	+	+	-	+	+
1989	+	-	+	+	+	+	+	+
1990	+	-	+	+	+	+	+	+
1991	+	-	+	+	+	+	+	+
1992	+	-	+	+	+	+	+	+
1993	+	-	+	+	+	+	+	+
1994	+	F	+	+	+	+	+	+
1995	+	F	+	+	+	+	+	+
1996	+	F	+	+	+	+	+	+
1997	+	F	+	+	+	+	+	+

+ = export approved.
 F = export approved for farm-raised only.
 - = export not approved.

* * * * *
 3. Section 23.57, American alligator (*Alligator mississippiensis*), the heading of paragraph (b) and paragraphs (b)(1), (2), (4), and (5) are revised as follows:
 * * * * *

(b) *Condition on initial export from the United States.* (1) Each hide (full skin) must be clearly identified by a durable, permanently locking Convention export tag bearing a legend showing the US-CITES logo, State of origin, species, year of take, and a unique serial number. The tag must be inserted through the hide and permanently locked in place using the locking mechanism of the tag and in

accordance with State requirements. Hides with broken tags may not be exported. Prior to export and upon submission of documentation to show legality of the hide, broken tags may be replaced with CITES replacement tags. Hides with valid CITES replacement tags are eligible for export.

(2) US-CITES export tags that were removed from the hides used to manufacture products to be exported must be surrendered to the Service prior to the export of those products.

* * * * *
 (4) Small parts such as tails, throats, feet, or backstrips shall be packed in transparent, sealed containers clearly

marked with a parts tag. Parts tags shall supply at a minimum the State of origin, species, original hide export tag number, and weight of the parts in the container.

(5) American alligator skulls shall be marked as required by State law. This marking shall include, at a minimum, reference to a valid US-CITES tag number.

Dated: July 11, 1995.
George T. Frampton, Jr.,
Assistant Secretary for Fish and Wildlife and Parks.

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