

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Reclassification of the American Alligator in Nine Parishes in Louisiana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The legal status of the American alligator, *Alligator mississippiensis*, in nine parishes of southern Louisiana is hereby changed from their present Threatened status to Threatened under the Similarity of Appearance clause of the Endangered Species Act of 1973. This change is being made because in recent years the alligator has increased its numbers significantly in the nine parishes. These nine parishes are located primarily within the coastal zone of Louisiana and include the following: Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, and St. Tammany. As such, the special rules which presently apply to alligators in Cameron, Calcasieu and Vermilion parishes in southwestern Louisiana would apply to these parishes as well.

DATES: This rule becomes effective on July 27, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. John Spinks, Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION; BACKGROUND: On July 30, 1976, Governor Edwin Edwards of Louisiana petitioned the Fish and Wildlife Service to delist the American alligator in all southern parishes in Louisiana. On February 7, 1977, Curtis Bohlen, then Acting Assistant Secretary of the Department of the Interior, advised the State that supporting data were required before the Service could act on the State's petition. Accordingly, the State supplied supporting documentation on April 12, 1977, December 7, 1977 and June 14, 1978 which they believed supported the reclassification as requested.

After an extensive review of the data supplied by the state, the Service decided to propose nine parishes (Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, St. Tammany) under the Threatened (Similarity of Appearance) clause of the Act because of the improved biological status of the species within the areas. At the same time, the

Service published a notice of review on the status of the alligator in all other parishes within Louisiana. The Service also proposed to amend the special rules which apply to American alligators.

The details of these proposals may be obtained by consulting the **Federal Register** of October 2, 1978 (43 FR 45512-45517) or the *Endangered Species Technical Bulletin* of November, 1978. A list of the supporting data supplied by Louisiana in conjunction with their petition was included in the October 2 **Federal Register**.

In accordance with the Endangered Species Act Amendments of 1978, the Service held public hearings on this proposal on May 25, 1979 at Morgan City, Louisiana, and May 29, 1979 at Tallahassee, Florida. In order to accommodate these hearings, the comment period on the proposal was reopened between May 10 and June 5, 1979. (See the **Federal Register** of May 9, 1979 (44 FR 27190) for details concerning these hearings and the reopened comment period).

At present, the Service has designated three 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. The alligator is classified in Louisiana under the Act as Threatened (Similarity of Appearance) in Cameron, Calcasieu, and Vermilion parishes, Threatened in other coastal parishes, and Endangered in inland parishes.

Summary of Comments

In the October 2, 1978 **Federal Register** proposal (43 FR 45513-45517) and the accompanying September 29, 1978 Press Release, the general public, State, Federal, and other interested parties were asked to submit comments of a biological nature on the proposal. In addition the Service requested comments during the reopened public comment period (May 10-June 5, 1979) and these have also been considered in the Service's decision.

A total of 23 comments were received; of these 8 represented private individuals. The following states and organizations submitted comments: Louisiana (Gov. Edwin Edwards), Florida Game and Fresh Water Fish Commission (Robert Brantly), Environmental Defense Fund (Michael Bean), Defenders of Wildlife (Toby Cooper), Fund for Animals (Lewis Regenstein), Southwest Florida Regional Alligator Association (George R. Campbell), Fouke Company (George G. Heinz), Columbia Impex Corporation (Armand S. Bennett), Ascantia, Inc. (Michael H. Ellis), Little Pecan Wildlife

Management Area (Robert A. Koll), National Wildlife Federation (Thomas L. Kimball), J. M. Burguieres Co. Ltd. Resolutions concerning the proposal, or dealing with alligators in other Louisiana parishes, were received from: Policy Jury of the Parish of St. Mary, Policy Jury of Jefferson Davis Parish.

Of those that commented, 10 were in favor of reclassification in all or a part of the proposed area, 1 was opposed, and 6 did not comment on the reclassification. None of the above offered new significant biological information pertaining to the Threatened (Similarity of Appearance) status in the nine parish area.

The policy jury of Jefferson Davis parish recommended changing the status of the alligator in that parish but offered no supporting data. Ascantia, Inc. also recommended changing the status in Livingston, Ascension, St. James and St. John the Baptist parishes although, again, no supporting data were supplied. Little Pecan Wildlife Management Area, while supporting the reclassification in the nine parishes, reviewed the alligator's status in Cameron parish and suggested that . . . "Plans should be made to restore management authority to the state as in the past . . ." However, this is already the case in Cameron parish since alligators are classified as Threatened (Similarity of Appearance) in this area and have been since 1975.

The Southwest Florida Regional Alligator Association (SFRAA) strongly opposed the reclassification believing that a change in status would undermine past conservation attempts for the species. Mr. Campbell doubted that alligators have recovered as much as is claimed stating that alligators are often more visible because of habitat destruction and human encroachment.

Defenders of Wildlife and the Fund for Animals submitted joint comments on the reclassification and opposed such reclassification on the grounds of inadequate enforceability and the potential harm which could be sustained by endangered crocodilians throughout the world should alligator hides enter the commercial market. No statements were made on the biological status of the alligator in the nine parish area.

Governor Edwin Edwards while strongly supporting the reclassification in the nine parishes as proposed, requested that the Service reconsider its position on the other parishes requested for delisting. In addition, he provided a recent manuscript by Larry McNease and Ted Joanen entitled "Distribution and relative abundance of the alligator in Louisiana coastal marshes" which provided additional information on

Louisiana coastal marsh alligators. Gov. Edwards reviewed the need to maintain good relations with landowners in alligator management and the value to the economy of southern Louisiana.

At Morgan City, Louisiana, approximately 200 persons attended the public hearings on the proposal and 19 people made statements. In addition, a number of written comments and resolutions were presented for inclusion to the minutes of the public hearings. The following institutions and governmental representatives made statements: Mr. Richard Yancey (Assistant Secretary, Louisiana Department of Wildlife and Fisheries), State Senator Jesse Knowles, Doyle Berry (Chairman, Louisiana Wildlife and Fisheries Commission), Don Willie (Vice Chairman, Louisiana Wildlife and Fisheries Commission), St. Mary's Parish Policy Jury, Terrebonne Parish Policy Jury, Tangipahoa Parish Policy Jury, Livingston Parish Policy Jury, Williams Inc., Continental Land and Fur Co., Ascantia Corp., Tenneco LaTerre, Allen Parish Policy Jury, St. Landry Parish Policy Jury, Vermilion Corp., St. John the Baptist Parish Policy Jury, Louisiana Land and Exploration Corp. All those who spoke were in favor of the reclassification and many persons recommended reclassification in additional parishes. No new substantial biological data were supplied.

At Tallahassee, Florida, 15 persons attended the public hearings and four made statements: Alan Egbert and Tommy Hines (Florida Game and Fresh Water Fish Commission), J. Don Ashley (Southeastern Alligator Association), Mr. Charles Lee (Florida Audubon Society). No opposition was made to the reclassification and several persons spoke in favor of it although they thought additional areas should have been included. No new biological data were added.

Conclusion

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. Therefore, the Service will consider the alligator as threatened (similarity of appearance) in these nine parishes.

The Service will continue to review the status of the American alligator throughout the State of Louisiana. However, although the State of Louisiana recommended that alligators in additional parishes be reclassified, the biological evidence does not support such an action. Those parishes recommended for a change in status have significant amounts of available alligator habitat and have populations which have increased substantially as a result of strict protective measures. The other parishes either do not have much available habitat or have populations which have remained stationary in numbers or have experienced only slight increases. Should alligator numbers increase to the point that they become a serious nuisance or exceed the carrying capacity of their habitat, appropriate measures, including reclassification, can be implemented at that time. Until that has been demonstrated, a reclassification in these areas is not in the best interests of the species.

In the October 2, 1978 proposal on the alligator, there were a series of changes proposed in the special rules concerning this species. Comments received are still being carefully reviewed by our Division of Law Enforcement and Wildlife Permit Office and a final decision has not yet been reached. However, the Service has decided to proceed with the reclassification now in order to allow the State time to prepare for the 1979 harvest. Until such time as new special rules are adopted, the special rules which apply to American alligators contained in Section 17.42(a) will apply to these nine parishes which are the subject of this rulemaking. These special rules are currently in effect in Cameron, Calcasieu and Vermilion parishes in Louisiana where the alligator populations are listed as Threatened (Similarity of Appearance).

Effect of the Rulemaking

The effect of this final rulemaking is to make those special rules which apply to American alligators contained in 50 CFR 17.42(a) applicable to the nine additional parishes in Louisiana which are the subject of this rulemaking (Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, St. Bernard, Jefferson, Plaquemines, and St. Tammany). These

rules would allow a controlled harvest of alligators within these parishes in accordance with state laws. Details of these special rules are contained in 50 CFR 17.42(a) and may be obtained from: Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (202/343-9242).

Endangered Species Act Amendments of 1978

The Endangered Species Act Amendments of 1978 specify that the following be added at the end of subsection 4(a)(1) of the Endangered Species Act of 1978:

At the time any such regulation (any proposal to determine a species to be an Endangered or Threatened species) is proposed, The Secretary shall by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat.

Since this rulemaking involves only a downward reclassification of status, this amendment does not apply.

The Endangered Species Act Amendments of 1978 further state the following:

(B) In the case of any regulation proposed by the Secretary to carry out the purposes of this section with respect to the determination and listing of endangered or threatened species and their critical habitats in any State (other than regulations to implement the Convention), the Secretary—

(i) shall publish general notice of the proposed regulation (including the complete text of the regulation), not less than 60 days before the effective date of the regulation:

(I) in the Federal Register, and
(II) if the proposed regulation specifies any critical habitat, in a newspaper of general circulation within or adjacent to such habitat;
(ii) shall offer for publication in appropriate scientific journals the substance of the Federal Register notice referred to in clause (i)(I);

(iii) shall give actual notice of the proposed regulation (including the complete text of the regulation), and any environmental assessment or environmental impact statement prepared on the proposed regulation, not less than 60 days before the effective date of the regulation to all general local governments located within or adjacent to the proposed critical habitat, if any; and
(iv) shall—

(I) if the proposed regulation does not specify any critical habitat, promptly hold a public meeting on the proposed regulation within or adjacent to the area in which the endangered or threatened species is located, if request therefore is filed with the Secretary by any person within 45 days after the date of publication of general notice under clause (i)(I), and

(II) if the proposed regulation specifies any critical habitat, promptly hold a public meeting on the proposed regulation within the area in which such habitat is located in

each State, and, if requested, hold a public hearing in each such State.

In the case of the American alligator reclassification herein considered, Section 4(B)(i)(I) above has been complied with (see the Federal Register of October 2, 1978; 43 FR 45512-45517). In addition, the following scientific journals were notified of the proposal and offered a copy of the Federal Register document for either publication or distribution to scientists: Copeia, Herpetologica, Herpetological Review, and the Journal of Herpetology.

Public hearings were held in areas affected by the proposal (Morgan City, LA.; Tallahassee, FL.) in order to allow the public to comment. Therefore, the proposal as published on October 2,

1978, does not need to be supplemented to comply with the Endangered Species Act Amendments of 1978. Accordingly, the Service is proceeding at this time with a final rulemaking to reclassify this species pursuant to the Endangered Species Act of 1973.

National Environmental Policy Act

An environmental assessment has been prepared in conjunction with this rulemaking. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined during regular business hours. This assessment forms the basis for a decision that this is not a major Federal action which would significantly affect the quality of the

human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rulemaking is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (703-235-1975).

Regulations Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations is hereby amended as set forth below:

1. Amend § 17.11(i) by changing the status of the American alligator in Louisiana under "REPTILES" on the list of animals to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species		Range			Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion threatened			
Alligator, American	<i>Alligator mississippiensis</i>	Wherever found in the wild, except in those areas where it is listed as Threatened, as set forth below.	Southeastern United States.	Entire	E	11	N/A
Alligator, American	<i>Alligator mississippiensis</i>	In the wild in FL and in certain areas of GA, LA (except in Cameron, Vermilion, and Calcasieu Parishes), SC and TX, as set forth in Sec. 17.42(a)(2)(iv).	U.S. FL and certain areas of GA, LA (except in Cameron, Vermilion and Calcasieu Parishes), SC and TX.	Entire	T	20	17.42(a)
Alligator, American	<i>Alligator mississippiensis</i>	In the wild in Cameron, Vermilion, and Calcasieu Parishes in LA.	U.S. (Cameron, Vermilion, and Calcasieu Parishes in LA.	N/A	T(S/A)	11	17.42(a)
Alligator, American	<i>Alligator mississippiensis</i>	In Captivity wherever found	Worldwide	N/A	T(S/A)	11	N/A

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

Dated: June 15, 1979.

Robert S. Cook,
Director, U.S. Fish and Wildlife Service.

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