



March 22, 2021

Ms. Pamela Hall Scruggs
Chief
Division of Management Authority
U.S. Fish and Wildlife Service
5275 Leesburg Pike, MS:IA
Falls Church, VA 22041-3803

Re: **Comments Supporting FWS-HQ-IA-2021-0004: American Alligator Proposed Rule**

Dear Chief Scruggs:

Thank you for the opportunity to provide comments on the U.S. Fish and Wildlife Service's (FWS or Service) proposed rule (86 Fed. Reg 5112) to amend the American alligator regulations at 50 C.F.R § 17.42(a). On behalf of the National Retail Federation, we would like to express our support for the Service's proposed rule because it protects American jobs, communities, native species and wetlands and it is rooted in science, law, and fact.

NRF, the world's largest retail trade association, passionately advocates for the people, brands, policies and ideas that help retail thrive. From its headquarters in Washington, D.C., NRF empowers the industry that powers the economy. Retail is the nation's largest private-sector employer, contributing \$3.9 trillion to annual GDP and supporting one in four U.S. jobs — 52 million working Americans. For over a century, NRF has been a voice for every retailer and every retail job, educating, inspiring and communicating the powerful impact retail has on local communities and global economies.

The amendment will correct a confusing provision and reconfirm primary federal control over commercial trade in endangered species, bringing it in line with other regulations. In doing so, the rule would also ensure preservation of "one of the most prominent successes of the Nation's endangered species program," as stated by FWS. We therefore kindly request that FWS finalize the proposed rule as drafted.

Federal law governing the alligator trade is extensive but in need of some clarification. As written in the summary of the FWS Federal Register Notice, the proposed change will "increase clarity and eliminate unnecessary regulation while at the same time maintaining what is necessary and advisable for the conservation of this and other endangered or threatened crocodylian species."

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The Endangered Species Act (ESA) indicates that FWS “regulates the harvest of alligators and legal trade in the animals, their skins and products made from them.” An oversight in current alligator regulations could create confusion regarding the roles of federal and state authority over trade. The “state of sale” provision at § 17.42(a)(2)(ii)(B)—which this proposed rule would eliminate—was meant to cover individual states’ regulatory authority over products posing health and safety risks such as meat. However, states could interpret this provision broadly to justify complete trade bans over all alligator products.

The possibility of confusion threatens market stability. Manufacturers, distributors, and retailers with national and regional operations are reluctant to trade in an item that could potentially be illegal in one state or a patchwork of states. This uncertainty puts at risk the United States’ alligator industry and the conservation efforts, ecosystem balance, jobs and local economies it supports. Simply put, this “state of sale” provision was never intended to allow states to disrupt commercial trade.

Rather, under the ESA, the federal government has authority to regulate trade in American alligator products using science and recognized international standards. The federal alligator program is consistent with the United States’ international commitments under the Convention on International Trade in Endangered Species (“CITES”). This federal approach based on science and conservation has provided for stable trade and augmented environmental protections over the past half century.

We once again voice our support for the FWS proposed rule at 86 Fed. Reg. 5112. This rule will relieve any ambiguity concerning federal authority over domestic trade in American alligators, provide clarity and stability for the alligator industry, and ensure prolonged success for the conservation of American alligator populations and the habitats they support. We appreciate FWS’s commitment to the alligator industry, as well as its dedication to ensuring the prosperity of this important species.

Sincerely,



David French
Senior Vice President
Government Relations