Comments have been filed by the Association of American Railroads (AAR) on behalf of itself and its member railroads, the Motor Vehicle Manufacturers Association of the United States, Inc. (MVMA), and Patrick W. Simmons (on behalf of the United Transportation Union, Illinois Legislative Board).

The AAR and the MVMA support the proposed exemption, essentially for the reasons provided in the decision served July 9, 1992. 3

Mr. Simmons opposes the proposed exemption. He contends that rail carrier employees are injured by reckless competition between rail carriers, because such competition results in pressure by management for employee concessions.

The rail carrier exemption provision, 49 U.S.C. 10505(a), requires us to exempt "a person, class of persons, or a transaction or service" when we find:

(1) That regulation is not necessary to carry out the 49 U.S.C. 10101(a) rail transportation policy (RTP); and

(2) Either (a) that the transaction or service is of limited scope, or (b) that regulation is not needed to protect shippers from an abuse of market power.

We think that the proposed exemption of motor vehicles and motor vehicle parts or accessories satisfies the section 10505(a) exemption criteria. We are convinced that regulation is not necessary to carry out the RTP. An exemption should not bring about any public health or safety concerns, discourage fair wages or safe and suitable working conditions, result in predatory pricing or practices, or discourage energy conservation. On the contrary, an exemption should result in positive benefits that will promote the RTP. Exemption will relieve administrative and paperwork burdens associated with tariff filing and contract summary filing. It will insulate this traffic from frivolous but potentially burdensome regulatory proceedings. It will allow quick and unhindered rate and service adjustments when changed market conditions mandate them. The proposed exemption should generally allow, to the maximum extent possible, competition to establish reasonable rates; minimize the need for Federal regulatory control; and ensure the continuation of a sound rail transportation system.

Mr. Simmons fears that any increase in competition will have an adverse impact on rail labor, in that the increased competitive posture of the railroads will prompt rail management to pressure rail labor for additional concessions. All section 10505 exemptions that increase competition, and indeed all Commission actions that increase competition, would be subject to attack on this basis. Given the several provisions in the RTP that favor competition, we will not find a proposed exemption to be inconsistent with the RTP merely because it tends to increase competition.

We are also convinced that regulation of the rail transportation of STCCs 37–11 and 37–14 is not needed to protect shippers from an abuse of market power. On account of motor carrier competition, geographic competition generally, and various shipper options and powers, there is, overall, effective competition for the rail transportation of motor vehicles and motor vehicles parts and accessories. We are therefore exempting the rail transportation of motor vehicles (STCC 37–11) and motor vehicle parts or accessories (STCC 37–14) from the provisions of 49 U.S.C. subtitle IV.

Environmental and Energy Considerations

We conclude that this action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

We conclude that this action will not have a significant impact on a substantial number of small entities. The shippers of motor vehicles and motor vehicle parts and accessories are, by and large, major corporations.

List of Subjects in 49 CFR Part 1039

Agricultural commodities, Intermodal transportation, Manufactured commodities, Railroads.


By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons and Phillips. Commissioner Simmons commented with a separate expression.

Sidney L. Strickland, Jr.,
Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1039 of the Code of Federal Regulations is amended as follows:

* See 49 U.S.C. 10101(a)(1), (4), and (5).

## PART 1039—EXEMPTIONS

1. The authority citation for part 1039 continues to read as follows:

Authority: 49 U.S.C. 10321, 10505, 10708, 10761, 10762, 11105, 11902, 11903, and 11904; and 5 U.S.C. 553

2. In § 1039.11, the material in the chart in paragraph (e), following STCC No. 36, is revised to read as follows:

<table>
<thead>
<tr>
<th>STCC No.</th>
<th>STCC tarriff</th>
<th>Commodity</th>
</tr>
</thead>
<tbody>
<tr>
<td>37 11</td>
<td>6001–T, eff.</td>
<td>Motor vehicles.</td>
</tr>
<tr>
<td>37 14</td>
<td>6001–O, eff.</td>
<td>Motor vehicle parts or accessories.</td>
</tr>
<tr>
<td>38 88</td>
<td>Watches or clocks.</td>
<td></td>
</tr>
<tr>
<td>39 88</td>
<td>Miscellaneous products of manufacturing.</td>
<td></td>
</tr>
</tbody>
</table>

[FR Doc. 93–881 Filed 1–13–93; 8:45 am]
BILLING CODE 7013–01–M

### DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB66

Endangered and Threatened Wildlife and Plants; Endangered Status for Three Foreign Butterflies

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines endangered status for the Homerus, Corsican, and Luzon peacock swallowtail butterflies, which are found, respectively, in Jamaica, Corsica (France) and Sardinia (Italy) and the Philippines. All occupy restricted ranges and are jeopardized by human habitat disruption and collection. This rule will implement the protection of the Endangered Species Act of 1973 for these three butterflies.


ADDRESSES: The complete file for this rule is available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, in room 750, 4401 Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of
Summary of Comments and Recommendations

In the proposed rule of September 10, 1991, and associated notifications, all interested parties were requested to submit information that might contribute to development of a final rule. Cables were sent to United States embassies in countries within the ranges of the subject species, requesting new data and the comments of the governments of those countries. Four comments were received. Dr. Tim R. New, Chairman of the IUCN Species Survival Commission Lepidoptera Group, supported the listing of all three butterflies. The Science Office of the U.S. Embassy in Rome collected data supporting the listing of P. hospiton. However, both Rudi Mattoni, editor of the Journal of Research on the Lepidoptera, and Professor H. Descimon of the University of Provence in France submitted comments suggesting that P. hospiton might not be endangered. Both observed that suitable habitat for this species is still widespread and that overcollecting is not a major problem. Nonetheless, they also indicated that the species is rare and at least potentially jeopardized by habitat destruction. In addition, Professor Descimon pointed out other possible problems, including hybridization, heavy parasitism, and difficulty in enforcing protective laws. These factors, together with information available from other sources, have led the Service to conclude that classification of P. hospiton as endangered is appropriate.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the three butterflies named above should be classified as endangered. Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 et seq.) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Homerus, Corsican, and Luzon peacock swallowtail butterflies are as follows (information largely from Collins and Morris (1985) and from proposals to add the three species to appendix I of the Convention).

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Habitat destruction is the main factor in the decline of at least two of these species. The Homerus swallowtail originally was recorded from most parts of Jamaica, but now is restricted to two disjunct areas of virgin forest, each comprising only a few square kilometers. Both populations are continuing to decline, largely because of logging and agricultural activity.

The Corsican swallowtail has declined dramatically on both Corsica and Sardinia. On each island, the food plants of the butterfly are believed by the local people to be poisonous to sheep, and are therefore being destroyed by fires. In addition, developments such as ski resorts have destroyed habitat on Corsica. Populations of the butterfly are now extremely localized.

The Luzon peacock swallowtail is found in a mountainous area, part of which is a popular summer tourist resort. New roads and other developments are reducing available habitat for the butterfly.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Excessive collection by butterfly enthusiasts and commercial interests is a problem for all three species, and is the main factor jeopardizing the Luzon peacock swallowtail. The latter is among the most beautiful and desirable members of the family, and its habitat is becoming easily accessible through road construction. It is readily captured, as its flight is very slow and it is attracted by decoys. Commercial collecting has been intensive and prices on the international market have been remarkably high for this species. In 1983 specimens were being sold in Japan for the equivalent of U.S. $150. In 1986 a dealer in the Philippines reportedly was purchasing pairs from local collectors at high volume and for the equivalent of U.S. $40.

The Corsican swallowtail also has suffered through excessive taking by both local and foreign collectors, who are aware of its rarity. Collecting of the Homerus swallowtail is difficult in its mountainous habitat, but may be a problem since it does command a high price and there are no effective protective measures in place. In 1984 a female was advertised in the United States for $2,800 and a male for $1,575.

C. Disease or Predation

Not now known to be immediate problems, but of potential concern in
any case of a species reduced to very limited numbers or habitat. As noted above, parasitism may be a threat to P. hospiton.

D. The Inadequacy of Existing Regulatory Mechanisms

The Homerus swallowtail is not covered by any specific conservation measures. The Corsican swallowtail is protected from direct taking on Corsica under French law, but the Sardinian population is not protected. There are no regulatory measures on either island to prevent habitat destruction, which is the main problem. The Luzon peacock swallowtail and its habitat are completely unprotected. Being on Appendix I of the Convention helps to control international trade in these species, but does not affect environmental disruption or local collecting.

E. Other Natural or Manmade Factors Affecting its Continued Existence

None now known.

The decision to determine endangered status for the Homerus, Corsican, and Luzon peacock swallowtail butterflies was based on an assessment of the best available scientific information, and of past, present, and probable future threats to these insects. All three have suffered substantial losses in habitat and/or numbers in recent years and are vulnerable to human exploitation and disturbance. If conservation measures are not implemented, further declines are likely to occur, increasing the danger of extinction for these butterflies. Critical habitat is not being determined, as such designation is not applicable to foreign species.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened pursuant to the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages conservation measures by Federal, international, and private agencies, groups, and individuals.

Section 7(a) of the Act, as amended, and as implemented by regulations at 50 CFR part 402, requires Federal agencies to evaluate their actions that are to be conducted within the United States or on the high seas, with respect to any species that is proposed or listed as endangered or threatened and with respect to its proposed or designated critical habitat (if any). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a proposed Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service. No such activities are currently known with respect to the species covered by this rule.

Section 8(a) of the Act authorizes the provision of limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered species in foreign countries. Sections 8(b) and 8(c) of the Act authorize the Secretary to encourage conservation programs for foreign endangered species, and to provide assistance for such programs in the form of personnel and the training of personnel.

Section 9 of the Act, and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered wildlife. It also is illegal to possess, sell, deliver, transport, or ship any such wildlife that has been taken in violation of the Act.

Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22. Such permits are available for scientific purposes, to enhance propagation or survival, or for incidental take in connection with otherwise lawful activities. All such permits also must be consistent with the purposes and policies of the Act, as required by section 10(d). In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

The Service will review these species to determine whether any of them should be placed on the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, which is implemented through section 8A(e) of the Act, and whether they should be considered for other appropriate international agreements, including the Cartagena Convention’s Protocol for Specially Protected Areas and Wildlife.

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of 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, as amended. A notice outlining the Service’s reasons for this determination was published in the Federal Register of October 25, 1983 (48 FR 49244).

Literature Cited


Author

The primary author of this rule is Ronald M. Nowak, Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240 (phone 703–358–1708 or FTS 921–1708).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

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:

Part 17—[Amended]

1. The authority citation for part 17 continues to read as follows:


2. Amend §17.11(b) by adding the following, in alphabetical order under INSECTS, to the List of Endangered and Threatened Wildlife:

§17.11 Endangered and threatened wildlife.

- (c) • • •
<table>
<thead>
<tr>
<th>Common name</th>
<th>Scientific name</th>
<th>Historic range</th>
<th>Vertebrate population</th>
<th>Status</th>
<th>When listed</th>
<th>Critical habitat</th>
<th>Special rules</th>
</tr>
</thead>
<tbody>
<tr>
<td>Butterfly, Corsican swallowtail.</td>
<td>Papilio hoespit</td>
<td>Corsica, Sardinia</td>
<td>Entire</td>
<td>E</td>
<td>488</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Butterfly, Homerus swallowtail.</td>
<td>Papilio homerus</td>
<td>Jamaica</td>
<td>Entire</td>
<td>E</td>
<td>488</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Butterfly, Luzon peacock swallowtail</td>
<td>Papilio chikae</td>
<td>Philippines</td>
<td>Entire</td>
<td>E</td>
<td>488</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>

Dated: October 1, 1992.

Bruce Blanchard,

*Acting Director.*

[FR Doc. 93–856 Filed 1–13–93; 8:45 am]

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