

Caregivers<sup>13</sup> also calls for increasing wages and benefits for staff, increasing provider payment rates, and improved access to mental health supports for the workforce. CCDF provides significant flexibility for Tribal Lead Agencies to prioritize CCDF funds for the workforce. OCC has heard from many Tribal Lead Agencies that there are oftentimes internal challenges to increasing CCDF Tribally Operated Center teacher, director, and staff wages and/or in retaining qualified CCDF staff.

#### Request for Information

**N1. Compensation.** Please describe specific challenges or barriers that CCDF rules present for Tribal Lead Agencies increasing child care staff wages, benefits, and or provider payment rates. Please describe what changes would better support efforts to support the Tribal child care workforce.

**N2. Qualifications.** Please provide perspectives on child care workforce qualifications and what makes for an effective workforce. Please describe specific challenges or barriers that CCDF rules present for Tribal Lead Agencies in preparing, supporting, and retaining qualified CCDF staff.

#### O. Eligible Child Care Providers

Eligible child care providers under CCDF include center-based child care providers, family child care providers, or in-home child care providers that are subject to health and safety requirements and monitoring and enforcement procedures (45 CFR 98.2). Relative providers are also eligible if they are 18 years of age or older and provide child care services only to eligible children who are—by marriage, blood relationship, or court decree—the grandchild, great grandchild, sibling[s] (if such provider lives in separate residence), niece, or nephew of such provider (45 CFR 98.2).

#### Request for Information

O. We seek feedback on how the current requirements on eligible providers support Tribal CCDF programs and if they create barriers or challenges for Tribal Lead Agencies. Are there changes in the eligible provider requirements that would better support the implementation of Tribal CCDF programs? Are there ways in which the requirements on eligible providers undermine Tribal sovereignty and self-determination?

<sup>13</sup> Executive Order 14095. April 18, 2023. <https://www.govinfo.gov/content/pkg/DCPD-202300309/pdf/DCPD-202300309.pdf>.

#### P. Comprehensive Background Checks

CCDF regulations require Tribes to comply with the same background check provisions as states and territories (45 CFR 98.83(d)(3)), but the Act does not provide Tribes the legal authority to conduct all checks, and Tribes face unique challenges directly requesting and accessing certain data. This lack of statutory authority and access to conduct certain checks impacts public safety not only in Tribal communities but across the United States.

#### Request for Information

P. We are seeking comment to better understand challenges Tribal Nations face to implement the CCDF background check requirements. Please describe challenges Tribal Nations face in the implementation of comprehensive background checks and recommendations for addressing these challenges while ensuring child safety.

#### Q. Other Topics

Please describe any other CCDF Tribal regulations and processes that interfere with Tribal Nations' child care program implementation and/or CCDF policies or regulations not yet addressed in this RFI and proposed solution(s).

Dated: July 24, 2023.

**Ruth J. Friedman,**

*Director, Office of Child Care.*

[FR Doc. 2023–15930 Filed 7–26–23; 8:45 am]

**BILLING CODE 4184–87–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS–HQ–ES–2023–0067; FF09E22000 FXES1111090FEDR 234]

RIN 1018–BG69

#### Endangered and Threatened Wildlife and Plants; Endangered Species Status for the Fluminense Swallowtail, Harris' Mimic Swallowtail, and Hahnel's Amazonian Swallowtail

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), propose to list two species and one subspecies of Brazilian swallowtail butterflies as endangered species under the Endangered Species Act of 1973, as amended (Act). Specifically, we are proposing to list the Fluminense swallowtail (*Parides ascanius*), Harris'

mimic swallowtail (*Eurytides* (= *Mimoides*) *lysithous harrisianus*), and Hahnel's Amazonian swallowtail (*Parides hahneli*), all butterflies endemic to Brazil. After a review of the best scientific and commercial information available, we find that listing all three swallowtails is warranted. Accordingly, we propose to list the Fluminense swallowtail, Harris' mimic swallowtail, and Hahnel's Amazonian swallowtail as endangered species under the Act. If we finalize this rule as proposed, it would add these species to the List of Endangered and Threatened Wildlife and extend the Act's protections to these species.

**DATES:** We will accept comments received or postmarked on or before September 25, 2023. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date. We must receive requests for a public hearing, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by September 11, 2023.

#### **ADDRESSES:**

*Written comments:* You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Search box, enter FWS–HQ–ES–2023–0067, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on “Comment.”

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–HQ–ES–2023–0067, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

*Availability of supporting materials:* Supporting materials, such as the species status assessment report, are available at <https://www.regulations.gov> at Docket No. FWS–HQ–ES–2023–0067.

#### **FOR FURTHER INFORMATION CONTACT:**

Rachel London, Chief, Branch of Delisting and Foreign Species, Ecological Services Program, U.S. Fish and Wildlife Service, MS: ES, 5275

Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2171.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

#### SUPPLEMENTARY INFORMATION:

##### Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. We particularly seek comments concerning:

- (1) The species' biology, range, and population trends, including:
  - (a) Biological or ecological requirements of the species, including habitat requirements for feeding, breeding, and sheltering;
  - (b) Genetics and taxonomy;
  - (c) Historical and current ranges, including distribution patterns and the locations of any additional populations of these species;
  - (d) Historical and current population levels, and current and projected trends; and
  - (e) Past and ongoing conservation measures for the species, their habitats, or both.
- (2) Threats and conservation actions affecting these species, including:
  - (a) Factors that may be affecting the continued existence of the species, which may include habitat destruction, modification, or curtailment; overutilization; disease; predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors.
  - (b) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to these species.
  - (c) Existing regulations or conservation actions that may be addressing threats to these species.
- (3) Additional information concerning the historical and current status of these species.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, do not provide substantial information necessary to support a determination. Section 4(b)(1)(A) of the Act (16 U.S.C. 1533(b)(1)(A)) directs that determinations as to whether any species is an endangered or a threatened species must be made solely on the basis of the best scientific and commercial data available.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via <https://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <https://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <https://www.regulations.gov>.

Our final determinations may differ from this proposal because we will consider all comments we receive during the comment period as well as any information that may become available after this proposal. Based on the new information we receive (and, if relevant, any comments on that new information), we may conclude that one or more of these species are threatened instead of endangered, or we may conclude that one or more of these species do not warrant listing as either endangered species or threatened species. In our final rule, we will clearly explain our rationale and the basis for our final decisions, including why we made changes, if any, that differ from this proposal.

##### Public Hearing

Section 4(b)(5) of the Act (16 U.S.C. 1533(b)(5)) provides for a public hearing on this proposal, if requested. Requests must be received by the date specified in **DATES**. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of the hearing, as well as how

to obtain reasonable accommodations, in the **Federal Register** at least 15 days before the hearing. We may hold the public hearing in person or virtually via webinar. We will announce any public hearing on our website, in addition to the **Federal Register**. The use of virtual public hearings is consistent with our regulations at 50 CFR 424.16(c)(3).

##### Previous Federal Actions

On January 1, 1994, we received a petition to add the Fluminense, Harris' mimic, and Hahnel's Amazonian swallowtails to the List of Endangered and Threatened Wildlife. On May 10, 1994, we published in the **Federal Register** (59 FR 24117) a 90-day finding that they may be warranted for listing. On December 7, 2004, we published in the **Federal Register** (69 FR 70580) a warranted but precluded 12-month finding for the Fluminense, Harris' mimic, and Hahnel's Amazonian swallowtails and identified them as candidates under the Act (16 U.S.C. 1531 *et seq.*). Candidates are those fish, wildlife, and plants for which we have on file sufficient information on biological vulnerability and threats to support preparation of a listing proposal, but for which development of a listing rule is precluded by other higher priority listing activities. These three species remained designated as candidates in the subsequent candidate notices of review (72 FR 20184, April 23, 2007; 73 FR 44062, July 29, 2008; 74 FR 40540, August 12, 2009; 76 FR 25150, May 3, 2011; 78 FR 24604, April 25, 2013; 81 FR 71457, October 17, 2016; 84 FR 54732, October 10, 2019; 86 FR 43470, August 9, 2021; 87 FR 26152, May 3, 2022).

##### Peer Review

A species status assessment (SSA) team prepared an SSA report for the Fluminense swallowtail, Harris' mimic swallowtail, and Hahnel's Amazonian swallowtail. The SSA team was composed of Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species.

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act, we solicited independent scientific review of the information contained in the Fluminense swallowtail, Harris'

mimic swallowtail, and Hahnel's Amazonian swallowtail SSA report. We sent the SSA report to seven independent peer reviewers and received four responses. Results of this structured peer review process can be found at Docket No. FWS-HQ-ES-2023-0067 on <https://www.regulations.gov>. In preparing this proposed rule, we incorporated the results of these reviews, as appropriate, into the SSA report, which is the foundation for this proposed rule.

### Summary of Peer Reviewer Comments

As discussed in Peer Review above, we received comments from four peer reviewers on the draft SSA report. We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the information contained in the SSA report. The peer reviewers generally concurred with our methods and conclusions, and provided additional information, clarification, and suggestions, including updates to the taxonomy of *Eurytides*, clarifications in terminology, discussion of uncertainty, and other editorial suggestions.

One peer reviewer suggested we inappropriately based our distribution area estimates for the three species on alpha hull polygons, spatial polygons used to represent a geographic location, and that our map suggests occurrences outside the distribution of the three species. The estimated ranges were based on data from the International Union for Conservation of Nature and Natural Resources (IUCN) and Sistema de Avaliação do Risco de Extinção da Biodiversidade (SALVE) and were not estimated using alpha hull polygons. We clarified the language in the SSA report and added details to the uncertainty discussion to address these concerns. Two peer reviewers also noted new occurrence records for the Fluminense and Harris' mimic swallowtails, but they were unable to provide further specifics at this time because the data are under restricted use. We incorporated the information on these new occurrence records into the text of the SSA report, but without details on the exact location, size, or condition of the new occurrence records, we were unable to incorporate them into the habitat analyses in the SSA report. In the SSA report, we also considered how this added uncertainty could lead to either over or under estimation in the resiliency, redundancy, and representation of the species. Otherwise, no substantive changes to our analysis and conclusions within the SSA report were deemed necessary, and peer

reviewer comments are addressed in the SSA report (Service 2023, entire).

### Background

#### *Taxonomy and Physical Description*

The Fluminense swallowtail, Harris' mimic swallowtail, and Hahnel's Amazonian swallowtail are all butterflies belonging to the Papilionidae family. The Fluminense swallowtail (*Parides ascanius*) and Hahnel's Amazonian swallowtail (*Parides hahneli*) are both full species in the multi-species genus *Parides* (Tyler, Hamilton A., Brown, and Wilson 1994, pp. 179, 185; Racheli and Olmisan 1998, p. 126; Racheli, Bauer, and Frankenbach 2006, pp. 73, 77; Bánki et al. 2022, unpaginated). The Harris' mimic swallowtail, *Eurytides* (= *Mimoides* or *Graphium*) *lysithous harrisianus* (Swainson 1822), is a subspecies of *E. (=M.) lysithous* (D'Abreu 1981 and D'Almeida 1966 as cited in Collins and Morris 1985, p. 208; Zhang et al. 2019, p. 3).

All three swallowtails are endemic to Brazil. The Fluminense swallowtail butterfly is a black-white-and-red swallowtail with a 45-millimeter (mm) (1.77-inch (in)) wingspan (Otero and Brown 1984, p. 2). Mimicking the Fluminense swallowtail, Harris' mimic swallowtail is a similar-looking medium-sized black-white-and-red swallowtail with narrow and relatively short tails (Collins and Morris 1985, p. 208). Hahnel's Amazonian swallowtail is a large black-and-yellow butterfly with a wingspan of 80–100 mm (3.14–3.93 in) (Collins and Morris 1985, p. 242).

#### *Fluminense Swallowtail Ecology*

The Fluminense swallowtail, endemic to sand forests or "restingas," currently occupies an estimated 36 to 288 square kilometers (km<sup>2</sup>) of sparse habitat fragments across the swampy coastal forests of Rio de Janeiro state and the southern part of Espírito Santo state (Soares et al. 2011, p. 69; Seraphim et al. 2016, p. 534; H. Grice et al. 2019b, p. 2; Almeida 2023, unpaginated; Brant 2023, pers. comm.; Rosa, Ribeiro, and Freitas 2023, p. 8). Larvae feed exclusively on pipevine (also known as Dutchman's pipe) (*Aristolochia trilobata*), which grows primarily in rich, wet soils and is endemic to restinga habitats (Almeida 2015a, unpaginated; Seraphim et al. 2016, p. 534). Adult Fluminense swallowtails have been documented to feed on over 30 flowering plant species of more than 12 families (Almeida 2015a, unpaginated).

The Fluminense swallowtail typically has six generations per year and develops from egg to adult in approximately 50–58 days, with adult male life expectancy averaging 12.3 days (Otero and Brown 1984, pp. 5–6, 8–9; Herkenhoff et al. 2013, pp. 29–32; Almeida 2015b, p. 387). Adult males can travel distances of 400 to 1,000 meters (m) but are not found above 60 m of altitude (Soares et al. 2011, p. 69; Herkenhoff et al. 2013, pp. 29, 32; Seraphim et al. 2016, p. 544).

Fluminense swallowtails are known to have a sparse distribution throughout their range; sex ratios are male-dominated; and population numbers increase in the austral spring, peaking in October, correlated with warmer temperatures and lower relative humidity (Herkenhoff et al. 2013, p. 32; dos Santos Pereira et al. 2020, pp. 371–372). The Fluminense swallowtail currently occupies at least eight sites in the state of Rio de Janeiro where the species exhibits a metapopulation structure (a group of separate subpopulations that has some level of mixing) (Seraphim et al. 2016, pp. 534, 544). The species has also recently been seen in the southern part of the state of Espírito Santo, but records of this occurrence are not yet published (Brant 2023, unpaginated). There has been a continual decline in both the number of subpopulations as well as the numbers of individuals within each subpopulation, but there are no current total population estimates (Seraphim et al. 2016, p. 535; Almeida 2017, unpaginated; H. Grice et al. 2019b, p. 4).

#### *Harris' Mimic Swallowtail Ecology*

The Harris' mimic swallowtail currently occupies approximately 96 km<sup>2</sup> in Rio de Janeiro city, Barra de São João, Poço das Antas Biological Reserve, Jurubatiba National Park, and possibly near Vitória City in Espírito Santo state. In these areas, the Harris' mimic swallowtail inhabits sand-forest habitats composed of mixed dense and open vegetation adjacent to and in the lowland restinga swamps and in sandy flats above the tidal margins of the coastal Atlantic Forest (Otero and Brown, 1984, p. 10; Collins and Morris 1985, p. 209; Tyler, Hamilton A., Brown, and Wilson 1994, p. 179; Brown, Jr. 2004, pers. comm.; Monteiro et al. 2004, entire; Brant 2023, pers. comm.; Rosa, Ribeiro, and Freitas 2023, p. 8).

Harris' mimic swallowtail feeds on several plant species in the larval stage, and adults feed on nectar from flowering plants (Collins and Morris 1985, p. 209; Tyler, Hamilton A., Brown, and Wilson 1994, p. 179; Xerces Society 2006, unpaginated). The Harris'

mimic swallowtail has one brood per year, and individuals can remain in the pupal stage for 9 months to a year (Collins and Morris 1985, p. 209; Tyler, Hamilton A., Brown, and Wilson 1994, p. 179; Almeida 2015a, unpaginated). The adult flight season is from September to February, and flight activity is strongly associated with high humidity and sunshine (Collins and Morris 1985, p. 209).

Population ecology data are limited for Harris' mimic swallowtail. While new and unpublished information indicates there may be more colonies that have recently been discovered, the current best available information indicates there are only five known colonies of the subspecies, with abundance estimates for only one site from the early 2000s (Tyler, Hamilton A., Brown, and Wilson 1994, p. 179; Brown, Jr. 2004, pers. comm.; Monteiro et al. 2004, entire; Almeida 2015a, unpaginated; Brant 2023, pers. comm.). Information on sex ratio, population structure, and total population size are unknown, but the best available information indicates the total population size is decreasing due to ongoing habitat loss and degradation.

#### *Hahnel's Amazonian Swallowtail Ecology*

Hahnel's Amazonian swallowtail is very rare with a patchy distribution, inhabiting old sand strips (*i.e.*, stranded beaches) in remote regions along the tributaries of the middle and lower Amazon River basin in the states of Amazonas and Pará (Brown in litt. 1982, as cited in Collins and Morris 1985, p. 242; New and Collins 1991, p. 29; Tyler, Hamilton A., Brown, and Wilson 1994, p. 178; Racheli, Bauer, and Frankenbach 2006, p. 77; H. Grice et al. 2019c, p. 4). Hahnel's Amazonian swallowtail's location records span a wide range, and, due to lack of recent surveys, it is unknown whether the species persists in these locations (Brown, Jr. 2004, pers. comm.; H. Grice et al. 2019c, p. 2).

Due to its extremely low densities and occurrence in remote regions, there is very limited information on the ecology, population size, population trends, or sex ratio of Hahnel's Amazonian swallowtail. We are unaware of any information on the number of generations per year, life span, or duration of each life stage for this species. The species likely feeds on only one or a few larval host plants, and while it has not been identified to species, it is believed to be in the Dutchman's pipe genus, either *Aristolochia lanceolato-lorato* or *A. acutifolia* (Collins and Morris 1985, p. 242; Tyler, Hamilton A., Brown, and

Wilson 1994, p. 337; Racheli, Bauer, and Frankenbach 2006, p. 13). Like other swallowtail butterflies, it has been seen flying high, at or above the canopy (Brown, Jr. 2004, pers. comm.). The species is known to have a linear and patchy distribution, which might limit gene flow (Collins and Morris 1985, p. 242; H. Grice et al. 2019c, p. 4).

A thorough review of the taxonomy, life history, and ecology of the Fluminense, Harris' mimic, and Hahnel's Amazonian swallowtails is presented in the SSA report (Service 2023, pp. 1–11).

### **Regulatory and Analytical Framework**

#### *Regulatory Framework*

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations in title 50 of the Code of Federal Regulations set forth the procedures for determining whether a species is an endangered species or a threatened species, issuing protective regulations for threatened species, and designating critical habitat for endangered and threatened species. In 2019, jointly with the National Marine Fisheries Service, the Service issued a final rule that revised the regulations in 50 CFR part 424 regarding how we add, remove, and reclassify endangered and threatened species and the criteria for designating listed species' critical habitat (84 FR 45020; August 27, 2019). On the same day, the Service also issued final regulations that, for species listed as threatened species after September 26, 2019, no longer automatically applied the prohibitions that section 9 of the Act applies to endangered species (84 FR 44753; August 27, 2019).

The Act defines an "endangered species" as a species that is in danger of extinction throughout all or a significant portion of its range, and a "threatened species" as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether any species is an endangered species or a threatened species because of any of the following factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused

actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term "threat" to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term "threat" includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term "threat" may encompass—either together or separately—the source of the action or condition or the action or condition itself.

However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an "endangered species" or a "threatened species." In determining whether a species meets either definition, we must evaluate all identified threats by considering the species' expected response and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species, such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an "endangered species" or a "threatened species" only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The Act does not define the term "foreseeable future," which appears in the statutory definition of "threatened species." Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term "foreseeable future" extends only so far into the future as we can reasonably determine that both the future threats and the species' responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions. "Reliable" does not mean "certain"; it means sufficient to provide

a reasonable degree of confidence in the prediction. Thus, a prediction is reliable if it is reasonable to depend on it when making decisions.

It is not always possible or necessary to define the foreseeable future as a particular number of years. Analysis of the foreseeable future uses the best scientific and commercial data available and should consider the timeframes applicable to the relevant threats and to the species' likely responses to those threats in view of its life-history characteristics. Data that are typically relevant to assessing the species' biological response include species-specific factors such as lifespan, reproductive rates or productivity, certain behaviors, and other demographic factors.

#### *Analytical Framework*

The SSA report documents the results of our comprehensive biological review of the best scientific and commercial data regarding the status of the species, including an assessment of the potential threats to the species. The SSA report does not represent our decision on whether the species should be proposed for listing as an endangered or threatened species under the Act. However, it does provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies.

To assess the Fluminense, Harris' mimic, and Hahnel's Amazonian swallowtails' viability, we used the three conservation biology principles of resiliency, redundancy, and representation (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency is the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years), redundancy is the ability of the species to withstand catastrophic events (for example, droughts, large pollution events), and representation is the ability of the species to adapt to both near-term and long-term changes in its physical and biological environment (for example, climate conditions, pathogens). In general, species viability will increase with increases in (or decrease with decreases in) resiliency, redundancy, and representation (Smith et al. 2018, p. 306). Using these principles, we identified the species' ecological requirements for survival and reproduction at the individual, population, and species levels, and described the beneficial and risk factors influencing the species' viability.

The SSA process can be categorized into three sequential stages. During the first stage, we evaluated the individual species' life-history needs. The next stage involved an assessment of the historical and current condition of the species' demographics and habitat characteristics, including an explanation of how each of these species arrived at its current condition. The final stage of the SSA involved making predictions about the species' responses to positive and negative environmental and anthropogenic influences. Throughout all of these stages, we used the best available information to characterize viability as the ability of a species to sustain populations in the wild over time. We use this information to inform our regulatory decision.

The following is a summary of the key results and conclusions from the SSA report; the full SSA report can be found at Docket No. FWS-HQ-ES-2023-0067 on <https://www.regulations.gov>.

#### **Summary of Biological Status and Threats**

In this discussion, we review the biological condition of each of these three species and their resources, and the threats that influence the species' current and future conditions, in order to assess the species' overall viability and the risks to that viability.

#### *Species Needs*

Based on each species' biology described above (see discussion under Background) and in the SSA report (Service 2023, pp. 1–11), the three Brazilian swallowtails all need sufficient quantity, quality, and connectivity of their respective specialized habitats; host plants for larval development and food sources; an abundance of flowering plants for nectar sources for the adult butterflies; and like most species, sufficient conspecific individuals to find a mate. Owing to the limited data available, our assessment of species-level needs is developed further based on general principles as they apply to butterfly biology.

Butterfly viability is fostered—and thereby extinction risk reduced—by having multiple, connected demographically and genetically robust populations distributed widely across heterogeneous environmental conditions (referred to as spatial heterogeneity) and the breadth of diversity (genetic, morphological, physiological, and ecological variation). Spatial heterogeneity fosters asynchronous fluctuations among populations, guarding against concurrent population declines.

Maintaining historical patterns and levels of gene flow maintains genetic health (increases heterozygosity), while continued connectivity allows for demographic rescue following population decline or extirpation and supports dispersal in response to shifting conditions. Gene flow and spatial heterogeneity also support continuing adaptive responses, as does conserving genetic diversity across the landscape. Conversely, butterfly species composed of reduced or isolated populations are vulnerable to genetic drift and have reduced adaptive capacity, or the ability to respond to (*i.e.*, cope with, accommodate, or evolve in response to) environmental change (Forester et al. 2022, p. 507). Habitat loss, degradation, and fragmentation are the main factors that affect all three species' viability throughout their ranges, with additional impacts from climate change, fire, and capture. The Fluminense swallowtail's viability is further impacted by parasitism.

#### *Habitat Loss and Degradation*

Habitat loss and degradation is the primary factor negatively impacting the three Brazilian swallowtails, with all species experiencing high levels of deforestation in their ranges (Collins and Morris 1985, pp. 22, 67, 152, 209, 242; Tyler, Hamilton A., Brown, and Wilson 1994, p. 179; Brown, Jr. 1996, pp. 45–46, 52, 57; Seraphim et al. 2016, p. 534). The Fluminense and Harris' mimic swallowtails both occupy the Atlantic Forest, which has experienced an estimated 88 to 95 percent deforestation, and the remaining tracts of its habitat are severely fragmented (Saatchi et al. 2001, p. 868; Monteiro et al. 2004, p. 786; Tabarelli et al. 2005, p. 695; Ribeiro et al. 2009, pp. 1141–1145). Within the Atlantic Forest, the highly specialized restinga habitat required by the Fluminense and Harris' mimic swallowtails only comprises 0.4 percent of its historical distribution, and the remaining patches of restinga habitat are under strong pressure from anthropogenic disturbance (Otero and Brown 1984, pp. 3–6, 10–12; Brown, Jr. 2004, pers. comm.; Rocha et al. 2007, entire; Uehara-Prado and Fonseca 2007, pp. 264–266). The states of Pará and Amazonas, where the Hahnel's Amazonian swallowtail occurs, have also experienced and are continuing to experience high rates of deforestation, losing 66 percent and 11 percent of forests, respectively, over less than three decades (Soares-Filho et al. 2006, p. 250; The Economist 2013, unpaginated; Fraser 2015, unpaginated; Instituto Nacional de Pesquisas Espaciais (INPE) 2017, unpaginated). Considering the life

history and biology of all three swallowtails, increased and ongoing habitat loss and deforestation has and is continuing to decrease their viability throughout their ranges due to their specialized habitat requirements and patchy distributions.

#### *Climate Change*

Across Brazil, climate change is expected to increase temperatures and alter precipitation patterns as well as increase heatwaves and the length of the dry season in the Amazon (The World Bank Group 2021, unpaginated). Studies of butterflies in other fragmented tropical landscapes indicate an adverse effect on species richness as a result of altered precipitation patterns (Shuey 2022, pers. comm.). As progressing global climate change increases storm surge and causes sea level to rise (Intergovernmental Panel on Climate Change (IPCC) 2022, pp. 6–13), the extent of the Fluminense and Harris' mimic swallowtails' habitats are projected to be further reduced. Given the narrow distribution and habitat fragmentation of all three of these Brazilian swallowtails, coupled with reliance on specialized habitat, they are likely to be increasingly susceptible to negative impacts from climatic changes with limited adaptive capacity (Bellaver et al. 2022, p. 654).

#### *Fire*

Fire is another factor impacting all three swallowtails' viability. The Poco das Antas Biological Reserve, a large reserve where both the Fluminense and Harris' mimic swallowtails occur, has experienced frequent fire since the 1980s following drainage and damming projects in the region (Herkenhoff et al. 2013, p. 29; Sansevero et al. 2020, p. 32). Regarding the Hahnel's Amazonian swallowtail, fire in the Amazon has increased in recent years and is correlated with increased deforestation (Silveira et al. 2020, entire; 2022, entire). Fire has and will likely continue to cause habitat fragmentation and reduce the availability of specialized habitat for the three swallowtails.

#### *Capture*

Rare butterflies and moths are highly prized by collectors, and all three swallowtails have been collected and sold internationally (Collins and Morris 1985, pp. 155–179; Morris et al. 1991, pp. 332–334; Williams 1996, entire). Despite some protections under Brazilian and European laws, monitoring the trade of insects is difficult and these existing regulations have minimal impact on regulating trade or collection (H. Grice et al. 2019a,

p. 4; 2019b, p. 4; 2019c, p. 4). Both the Fluminense and Harris' mimic swallowtail occur near urban areas, increasing opportunity and ease of capture (Brown, Jr. 2004, pers. comm.). Additionally, species such as these three swallowtails with restricted distributions or localized populations tend to be more vulnerable to overcollection than those with a wider distribution (Brown, Jr. 2004, pers. comm.).

#### *Parasitism*

Parasitism has been identified as another stressor of the Fluminense swallowtail, with several parasites known to target the species and some colonies experiencing annual patterns of parasitism (Tavares, Navarro-Tavares, and Almeida, 2006, entire; Almeida 2015b, p. 388; 2017, pers. comm.). While impacts of parasitism on the species are unknown, parasitism and subsequent mortality of early life stages could potentially contribute to local extirpations of the remaining small, fragmented subpopulations.

#### *Conservation Efforts and Regulatory Mechanisms*

Our evaluation of the status of the species takes into account the extent to which threats are reduced or removed as a result of conservation efforts or existing regulatory mechanisms.

All three swallowtails are afforded some protections under Brazilian and international laws, including Brazilian environmental laws for endangered species (Fluminense and Harris' mimic swallowtails), protections in the state of Pará through its list of threatened species (Hahnel's Amazonian swallowtail), and inclusion in Annex B of the European Union (EU) Wildlife Trade Regulations (Fluminense and Hahnel's Amazonian swallowtails) (Snt'Anna, Rabinovici and Spitzcek 2016, unpaginated; European Commission 2017, p. 802; Biodiversidade 2022, unpaginated). However, due to the difficulty in monitoring the insect trade, these existing regulations have minimal impact, and none of the three swallowtails is listed in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (H. Grice et al. 2019a, p. 4; 2019b, p. 4; 2019c, p. 4).

Habitat protection is generally lacking for all three swallowtails, although there is some overlap of protected areas in the Fluminense and Harris' mimic swallowtails' ranges. While most extant subpopulations of the Fluminense swallowtail exist outside protected areas, it is afforded some protection

where it occurs in small municipal parks and conservation units as well as in one protected reserve, Poço das Antas Biological Reserve (Seraphim et al. 2016, p. 536; Almeida 2017, pers. comm.). The Harris' mimic swallowtail also is afforded some protections from conservation units and the Poço das Antas Biological Reserve, in addition to occupying Jurubatiba National Park, which holds the largest remaining remnant of restinga habitat (Critical Ecosystem Partnership Fund (CEPF) 2001, p. 9; Rocha et al. 2007, pp. 263–269). While some habitat protections are in place in known occurrence locations for the Fluminense and Harris' mimic swallowtail, they occupy a highly urbanized matrix undergoing continuing development pressures (International Finance Corporation (IFC) 2002, entire; Khalip 2007, unpaginated). It is unknown if the Hahnel's Amazonian swallowtail currently occurs in any protected areas, but limited resources for conservation application minimize effectiveness of protected areas in the Amazon (Collins and Morris 1985, p. 234; Laurance and Williamson 2001, p. 1533; H. Grice et al. 2019c, p. 4).

Captive-reared Fluminense swallowtails were released over several years throughout the city of Rio de Janeiro in an attempt to increase subpopulation sizes and genetic diversity, but there was limited post-release monitoring to determine the success of this effort (Instituto Chico Mendes De Conservação Da Biodiversidade (ICMBio) 2007, pp. 82–89; Almeida 2017, pers. comm.; Monteiro 2017, pers. comm.). Captive rearing may be reintiated in the future, but it is unclear when or how effective it might be at conserving the species (Almeida 2017, pers. comm.). There are no known captive rearing efforts for the Harris' mimic swallowtail nor for the Hahnel's Amazonian swallowtail.

#### *Current Condition: Fluminense Swallowtail*

The best available scientific and commercial data indicate the Fluminense swallowtail is a narrow endemic with low genetic diversity composed of a single metapopulation that occupies an estimated 36 to 288 km<sup>2</sup> (Tyler, Hamilton A., Brown, and Wilson 1994, p. 179; Seraphim et al. 2016, p. 534; Almeida 2017, pers. comm.). The remnant subpopulations occur in a highly urbanized landscape undergoing increased isolation from habitat loss, degradation, and fragmentation, with the majority occurring in small habitat patches under high risk of local extinction (Almeida 2015a, unpaginated; Almeida 2017,

pers. comm.; Seraphim et al. 2016, p. 534; Monteiro 2017, pers. comm.). While some of the subpopulations occur in protected areas, most are afforded limited or no protections (Soares et al. 2011, entire; Seraphim et al. 2016, pp. 536, 544).

The Fluminense swallowtail's small and isolated colonies are at increased risk of extirpation due to stochasticity and catastrophic events, and although we cannot quantify the level of risk, there is increasing vulnerability the longer they remain in this impaired condition. The requisite restinga habitat of the Fluminense swallowtail, once the dominant habitat type along the eastern coast of Brazil, was reduced to less than 1 percent of its former range by 2007. Past deforestation resulted in extirpation of multiple colonies and fragmentation and isolation of remaining sites. Considering the severe reduction in the specialized requisite habitat for the Fluminense swallowtail and its reliance on a single larval host plant, the species has limited resiliency and ability to withstand environmental and demographic stochasticity. With only a single metapopulation and a reduced number of subpopulations inhabiting a highly urbanized and fragmented landscape, the Fluminense swallowtail has minimal redundancy to safeguard against catastrophic events. Lastly, while the species is already known to have low genetic diversity and an inherently limited ability to adapt (owing to its specialized habitat requirements, a single larval host plant, and a narrow climatic niche breadth), as subpopulations are increasingly isolated from habitat loss and fragmentation the species representation and ability to adapt to changing and shifting environmental conditions is further constrained.

#### *Current Condition: Harris' Mimic Swallowtail*

The Harris' mimic swallowtail is a narrow endemic that occupies an estimated 96 km<sup>2</sup> across approximately six sites in the state of Rio de Janeiro and possibly one site in the state of Espírito Santo (Collins and Morris 1985, p. 208; Tyler, Hamilton A., Brown, and Wilson 1994, p. 179; Brown, Jr. 2004, pers. comm.; Monteiro et al. 2004, p. 153; Almeida 2015a, unpaginated; H. Grice et al. 2019a, p. 2; Brant 2023, pers. comm.; Rosa, Ribeiro, and Freitas 2023, p. 8). There are no current population estimates for any of these sites, and whether Harris' mimic swallowtail still occurs in these locations is uncertain. Two colonies in the City of Rio de Janeiro occur in small patches of vegetation possibly under high risk of

local extirpation, and recent observations are scarce of the colony in Barra de São João, which was previously characterized as vigorous and stable (Tyler, Hamilton A., Brown, and Wilson 1994, p. 179; Brown, Jr. 2004, pers. comm.; Almeida 2015a, unpaginated; H. Grice et al. 2019a, p. 2).

By the early 2000s, the restinga habitat was reduced to only 0.4 percent of its historical distribution with restinga remnants already generally small and surrounded by areas undergoing rapid urbanization or already urbanized (Ribeiro et al. 2009, as cited in Seraphim et al. 2016, p. 534; Rocha et al. 2007, pp. 263, 265). This severely reduced habitat has continued to decline. Over the last 20 years, there was an estimated 2.14 percent forest loss in the Harris' mimic swallowtail's remaining range, and at times protected areas experienced higher rates of deforestation than outside protected areas (Service 2023, p. 21).

In the absence of historical or current population data, the large quantities of habitat loss seen in the range of the Harris' mimic swallowtail suggest the population has likely experienced comparable declines in size. The subspecies has been extirpated from portions of its historical range and in its once strongest colony it now appears to be scarce. While the Harris' mimic swallowtail occupies two protected areas of intact restinga habitat, has some diversity in habitat types used, and has larva that feeds on multiple host plants, its extent of occurrence is severely reduced and is within a highly urbanized landscape, limiting the subspecies' resiliency and ability to withstand environmental and demographic stochasticity. The subspecies reliance on a severely reduced specialized habitat in a highly urbanized and fragmented landscape with only a few known colonies, indicates the Harris' mimic swallowtail has limited redundancy to safeguard against catastrophic events. Finally, the highly urbanized and fragmented landscape the Harris' mimic swallowtail inhabits likely limits migration and gene flow between colonies, which coupled with the subspecies' reliance on specialized habitat, hinders the Harris' mimic swallowtails' representation and leaves it vulnerable to changing and shifting environmental conditions.

#### *Current Condition: Hahnel's Amazonian Swallowtail*

The Hahnel's Amazonian swallowtail has an estimated extent of occurrence of 189,015 km<sup>2</sup>, has an unknown area of occupancy, and is known from a linear and patchy distribution along the

tributaries of the middle and lower Amazon River basin (Collins and Morris 1985, p. 242; New and Collins 1991, p. 29; Tyler, Hamilton A., Brown, and Wilson 1994, p. 178; Racheli, Bauer, and Frankenbach 2006, p. 77; H. Grice et al. 2019c, p. 2). The species is known to be scarce; however, even when rarity is natural, rarer species are at higher risk of extinction than those that are common (Flather and Sieg 2007, entire; Johnson 1998, entire).

Regions where the Hahnel's Amazonian swallowtail was previously known to occur have experienced continued and increasing rates of deforestation (H. Grice et al. 2019a, p. 4). From 2000–2020, there was 5.65 percent forest cover loss in the range of the Hahnel's Amazonian swallowtail, and there were similar trends in forest loss between protected areas and non-protected areas (Service 2023, p. 24). While there remains about 85 percent of forest cover in the species' known extent of occurrence, the species is inherently rare, restricted to a highly specialized habitat, and likely has only a single larval host plant, which limits the species' resiliency and ability to withstand environmental and demographic stochasticity. While the large extent of occurrence provides some level of redundancy to safeguard against catastrophic events, the species has only been found in a few locations, suggesting that localized extirpations from habitat loss or other factors would likely be detrimental to the species. Finally, considering the species' scarcity and patchy linear distribution, there is also likely little gene flow between populations, limiting the species' representation and making it vulnerable to changing and shifting environmental conditions.

#### *Future Scenarios and Cumulative Effects*

As part of the SSA report, we developed future-condition scenarios to capture the range of uncertainties regarding future threats and the projected responses by the Fluminense, Harris' mimic, and Hahnel's Amazonian swallowtails. Our future scenarios reflect the conclusion from our analysis that the primary factor influencing the future viability of all three of these swallowtails is habitat loss and degradation resulting from: (1) deforestation from land-use change and urbanization, and (2) climate-change impacts on the species' climatic niche breadths and habitat availability. The best available information indicates that all three swallowtails' populations and distributions will decline in the future. However, because we have determined

that the Fluminense, Harris' mimic, and Hahnel's Amazonian swallowtails meet the Act's definition of endangered species based on their current conditions (see Determination of Status for the Fluminense Swallowtail, Harris' Mimic Swallowtail, and Hahnel's Amazonian Swallowtail, below), we are not presenting the results of the future scenarios in this proposed rule. Please refer to the SSA report (Service 2023, entire) for the full analysis of future scenarios.

We note that, by using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have analyzed the cumulative effects of identified threats and conservation actions on these species. To assess the current and future condition of the species, we evaluate the effects of all the relevant factors that may be influencing the species, including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to the entire species, our assessment integrates the cumulative effects of the factors and replaces a standalone cumulative effects analysis.

*Determination of Status for the Fluminense Swallowtail, Harris' Mimic Swallowtail, and Hahnel's Amazonian Swallowtail*

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of an endangered species or a threatened species. The Act defines an "endangered species" as a species in danger of extinction throughout all or a significant portion of its range, and a "threatened species" as a species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether a species meets the definition of an endangered species or a threatened species because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

*Status Throughout All of Its Range—Fluminense Swallowtail*

After evaluating threats to the species and assessing the cumulative effect of

the threats under the Act's section 4(a)(1) factors, we determined that the Fluminense swallowtail's distribution and population have been reduced across its range as evidenced by the extensive loss and degradation of its requisite specialized habitat. The remnant subpopulations occur in a highly urbanized landscape undergoing increased isolation from habitat loss, degradation, and fragmentation and consequently are at increased risk of extirpation due to stochasticity and catastrophic events. Coupled with the species' specialized habitat requirements, the isolation and fragmentation of the remaining subpopulations, which make up a single metapopulation, have left the species with insufficient resiliency, redundancy, and representation for its continued existence to be secure.

Thus, after assessing the best scientific and commercial data available regarding threats to the species and assessing the cumulative effect of the threats under the Act's section 4(a)(1) factors, we determine that the Fluminense swallowtail is in danger of extinction throughout all of its range primarily due to historical and ongoing habitat loss and degradation from development and urbanization (Factor A) and the additive threat from capture (Factor B). The existing regulatory mechanisms and other conservation measures are inadequate to address the identified threats to the species (Factor D). The species does not fit the statutory definition of a threatened species because it is currently in danger of extinction, whereas threatened species are those likely to become in danger of extinction within the foreseeable future.

*Status Throughout All of Its Range—Harris' Mimic Swallowtail*

After evaluating threats to the species and assessing the cumulative effect of the threats under the Act's section 4(a)(1) factors, we determined the Harris' mimic swallowtail's distribution and population have been reduced across its range as evidenced by the extensive loss and degradation of its requisite specialized habitat. The remnant colonies occur in a highly urbanized landscape undergoing increased isolation from habitat loss, degradation, and fragmentation and consequently are at increased risk of extirpation due to stochasticity and catastrophic events. Coupled with the species' specialized habitat requirements, the isolation and fragmentation of the remaining colonies have left the subspecies with insufficient resiliency, redundancy, and

representation for its continued existence to be secure.

Thus, after assessing the best scientific and commercial data available regarding threats to the species and assessing the cumulative effect of the threats under the Act's section 4(a)(1) factors, we determine that the Harris' mimic swallowtail is in danger of extinction throughout all of its range due to historical and ongoing habitat loss and degradation from anthropogenic activities (Factor A) and the additive threat from capture (Factor B). The existing regulatory mechanisms and other conservation measures are inadequate to address the identified threats to the species (Factor D). The species does not fit the statutory definition of a threatened species because it is currently in danger of extinction, whereas threatened species are those likely to become in danger of extinction within the foreseeable future.

*Status Throughout All of Its Range—Hahnel's Amazonian Swallowtail*

After evaluating threats to the species and assessing the cumulative effect of the threats under the Act's section 4(a)(1) factors, we determined that the viability of the Hahnel's Amazonian swallowtail is limited as a result of extensive habitat loss and degradation coupled with the species' rarity and patchy distribution. The species is inherently rare, is restricted to a highly specialized habitat, and likely has only a single larval host plant, which, when coupled with habitat loss and degradation, makes it vulnerable to changing and shifting environmental conditions and catastrophic events, and has left the species with insufficient resiliency, redundancy, and representation for the species' continued existence to be secure.

Thus, after assessing the best scientific and commercial data available regarding threats to the species and assessing the cumulative effect of the threats under the Act's section 4(a)(1) factors, we determine that the Hahnel's Amazonian swallowtail is in danger of extinction throughout all of its range primarily due to ongoing and increasing habitat loss and degradation from deforestation and fire (Factor A) and the additive threat from capture (Factor B). The existing regulatory mechanisms and other conservation measures are inadequate to address the identified threats to the species (Factor D). The species does not fit the statutory definition of a threatened species because it is currently in danger of extinction, whereas threatened species are those likely to become in danger of extinction within the foreseeable future.

### *Status Throughout a Significant Portion of Their Ranges*

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. We have determined that the Fluminense swallowtail, Harris' mimic swallowtail, and Hahnel's Amazonian swallowtail are in danger of extinction throughout all of their ranges and accordingly did not undertake an analysis of any significant portion of their ranges. Because the Fluminense swallowtail, Harris' mimic swallowtail, and Hahnel's Amazonian swallowtail warrant listing as endangered throughout all of their ranges, our determination does not conflict with the decision in *Center for Biological Diversity v. Everson*, 435 F. Supp. 3d 69 (D.D.C. 2020), which vacated the provision of the Final Policy on Interpretation of the Phrase "Significant Portion of Its Range" in the Endangered Species Act's Definitions of "Endangered Species" and "Threatened Species" (79 FR 37578; July 1, 2014) providing that if the Service determines that a species is threatened throughout all of its range, the Service will not analyze whether the species is endangered in a significant portion of its range.

### *Fluminense Swallowtail, Harris' Mimic Swallowtail, and Hahnel's Amazonian Swallowtail—Determination of Status*

Our review of the best available scientific and commercial information indicates that the Fluminense swallowtail, Harris' mimic swallowtail, and Hahnel's Amazonian swallowtail meet the Act's definition of endangered species. Therefore, we propose to list the Fluminense swallowtail, Harris' mimic swallowtail, and Hahnel's Amazonian swallowtail as endangered species in accordance with sections 3(6) and 4(a)(1) of the Act.

### **Available Conservation Measures**

The purposes of the Act are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in the Act. Under the Act, a number of steps are available to advance the conservation of species listed as endangered or threatened species. As explained further below, these conservation measures include: (1)

recognition, (2) recovery actions, (3) requirements for Federal protection, (4) financial assistance for conservation programs, and (5) prohibitions against certain activities.

Recognition through listing results in public awareness, as well as in conservation by Federal, State, Tribal, and local agencies, foreign governments, private organizations, and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species.

Section 7 of the Act is titled, "Interagency Cooperation," and it mandates all Federal action agencies to use their existing authorities to further the conservation purposes of the Act and to ensure that their actions are not likely to jeopardize the continued existence of listed species or adversely modify critical habitat. Regulations implementing section 7 are codified at 50 CFR part 402.

Section 7(a)(2) states that each Federal action agency shall, in consultation with the Secretary, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat.

A Federal "action" that is subject to the consultation provisions of section 7(a)(2) is defined in our implementing regulations at 50 CFR 402.02 as all activities or programs of any kind authorized, funded, or carried out, in whole or in part, by Federal agencies in the United States or upon the high seas. With respect to the Fluminense swallowtail, Harris' mimic swallowtail, and Hahnel's Amazonian swallowtail, no known actions would require consultation under section 7(a)(2) of the Act. Given the regulatory definition of "action," which clarifies that it applies to activities or programs "in the United States or upon the high seas," the Fluminense swallowtail, Harris' mimic swallowtail, and Hahnel's Amazonian swallowtail are unlikely to be the subject of section 7 consultations, because the entire life cycles of these species occur in terrestrial areas outside of the United States and are unlikely to be affected by U.S. Federal actions. Additionally, no critical habitat will be designated for these species because, under 50 CFR 424.12(g), we will not designate critical habitat within foreign countries or in other areas outside of the jurisdiction of the United States.

Section 8(a) of the Act (16 U.S.C. 1537(a)) 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 or threatened species in foreign countries. Sections 8(b) and 8(c) of the Act (16 U.S.C. 1537(b) and (c)) authorize the Secretary to encourage conservation programs for foreign listed species, and to provide assistance for such programs, in the form of personnel and the training of personnel.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to endangered wildlife. The prohibitions of section 9(a)(1) of the Act, and implementing regulations codified at 50 CFR 17.21, make it illegal for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed any of the following acts with regard to any endangered wildlife: (1) import into, or export from, the United States; (2) take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct) within the United States, within the territorial sea of the United States, or on the high seas; (3) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such wildlife that has been taken illegally; (4) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity; or (5) sell or offer for sale in interstate or foreign commerce. Certain exceptions to these prohibitions apply to employees or agents of the Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits for endangered wildlife are codified at 50 CFR 17.22, and general Service permitting regulations are codified at 50 CFR part 13. With regard to endangered wildlife, a permit may be issued for scientific purposes, for enhancing the propagation or survival of the species, or for take incidental to otherwise lawful activities. The statute also contains certain exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

The Service may also register persons subject to the jurisdiction of the United States through its captive-bred wildlife (CBW) program if certain established requirements are met under the CBW regulations (see 50 CFR 17.21(g)). Through a CBW registration, the Service may allow a registrant to conduct

certain otherwise prohibited activities under certain circumstances to enhance the propagation or survival of the affected species, including take; export or re-import; delivery, receipt, carriage, transport, or shipment in interstate or foreign commerce in the course of a commercial activity; or sale or offer for sale in interstate or foreign commerce. A CBW registration may authorize interstate purchase and sale only between entities that both hold a registration for the taxon concerned. The CBW program is available for species having a natural geographic distribution not including any part of the United States and other species that the Service Director has determined to be eligible by regulation. The individual specimens must have been born in captivity in the United States.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify, to the extent known at the time a species is listed, specific activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a proposed listing on proposed and ongoing activities within the range of the species.

At this time, we are unable to identify specific activities that would not be considered likely to result in a violation of section 9 of the Act beyond what is already clear from the descriptions of prohibitions or already excepted through our regulations at 50 CFR 17.21. Also, at this time, we are unable to identify specific activities that would be considered likely to result in a violation of section 9 of the Act beyond what is already clear from the descriptions of the prohibitions at 50 CFR 17.21.

Applicable wildlife import/export requirements established under the Act (16 U.S.C. 1538(d)–(f)), the Lacey Act Amendments of 1981 (16 U.S.C. 3371 *et seq.*), and 50 CFR part 14 must also be met for imports and exports of the Fluminense swallowtail, Harris’ mimic

swallowtail, and Hahnel’s Amazonian swallowtail. Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Service’s Division of Management Authority (*managementauthority@fws.gov*; 703–358–2104).

**Required Determinations**

*Clarity of the Rule*

We are required by E.O.s 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (1) Be logically organized;
- (2) Use the active voice to address readers directly;
- (3) Use clear language rather than jargon;
- (4) Be divided into short sections and sentences; and
- (5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

*National Environmental Policy Act (42 U.S.C. 4321 et seq.)*

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

**References Cited**

A complete list of references cited in this rulemaking is available on the internet at <https://www.regulations.gov> in Docket No. FWS–HQ–ES–2023–0067 and upon request from the Branch of Delisting and Foreign Species (see **FOR FURTHER INFORMATION CONTACT**).

**Authors**

The primary authors of this proposed rule are the staff members of the Fish and Wildlife Service’s Species Assessment Team and the Branch of Delisting and Foreign Species.

**List of Subjects in 50 CFR part 17**

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

**Proposed Regulation Promulgation**

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

**PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS**

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

**Authority:** 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

- 2. In § 17.11, in paragraph (h), amend the List of Endangered and Threatened Wildlife by adding entries for “Swallowtail, Fluminense”, “Swallowtail, Hahnel’s Amazonian”, and “Swallowtail, Harris’ mimic” in alphabetical order under INSECTS to read as follows:

**§ 17.11 Endangered and threatened wildlife.**

\* \* \* \* \*  
(h) \* \* \*

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
INSECTS				
*	*	*	*	*
Swallowtail, Fluminense ..	<i>Parides ascanius</i> .....	Wherever found .....	E	[ <b>Federal Register</b> citation when published as a final rule].
Swallowtail, Hahnel’s Amazonian.	<i>Parides hahneli</i> .....	Wherever found .....	E	[ <b>Federal Register</b> citation when published as a final rule].
Swallowtail, Harris’ mimic	<i>Eurytides (=Mimoides) lysithous harrisianus</i> .	Wherever found .....	E	[ <b>Federal Register</b> citation when published as a final rule].
*	*	*	*	*

**Martha Williams,**

*Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2023-15739 Filed 7-26-23; 8:45 am]

**BILLING CODE 4333-15-P**