

of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine event permit are specifically excluded from further analysis and documentation under that section.

Under figure 2–1, paragraph (34)(h), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

## PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

2. In §100.518, revise the section heading, paragraph (a)(1) and paragraph (c), to read as follows:

### § 100.518 Severn River, College Creek, Weems Creek and Carr Creek, Annapolis, Maryland.

(a)(1) *Regulated area.* The regulated area is established for the waters of the Severn River from shoreline to shoreline, bounded to the northwest by the route 50 fixed highway bridge and bounded to the southeast by a line drawn from the Naval Academy Light at latitude 38°58'39.5" N, longitude 076°28'49" W thence to Greenbury Point at latitude 38°58'29" N, longitude 076°27'16" W. All coordinates reference Datum NAD 1983.

\* \* \* \* \*

(c) *Effective period.* (1) This section is effective during, and 30 minutes before each of the following annual events:

(i) Safety at Sea Seminar, held on the last Saturday in March;

(ii) Naval Academy Crew Races, held on the third and fourth Saturday in April and the third Friday in May; and

(iii) Blue Angels Air Show, held on the last Tuesday and Wednesday in May.

(2) The Commander, Fifth Coast Guard District will publish a notice in the **Federal Register** and the Fifth Coast Guard District Local Notice to Mariners announcing the specific event dates and times.

Dated: November 24, 2004.

**Ben R. Thomason, III,**

*Captain, U. S. Coast Guard, Commander, Fifth Coast Guard District, Acting.*

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**BILLING CODE 4910–15-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

### Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List Seven Foreign Species of Swallowtail Butterflies as Threatened or Endangered

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

**ACTION:** Petition finding.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the 12-month finding on a petition to list the following seven foreign swallowtail butterflies under the Endangered Species Act: Harris' mimic swallowtail (*Eurytides lysithous harrisianus*), the Jamaican kite swallowtail (*Eurytides marcellinus*), the Oaxacan swallowtail (*Papilio esperanza*), the Fluminense swallowtail (*Parides ascanius*), Hahnel's Amazonian swallowtail (*Parides hahneli*), the southern tailed birdwing (*Ornithoptera meridionalis*), and the Kaiser-I-Hind swallowtail (*Teinopalpus imperialis*). The best available information indicates that listing is not warranted for *Papilio esperanza* and *Ornithoptera meridionalis*. For the remaining five species, listing is warranted but precluded by higher-priority listing actions. Our rationale is discussed below. We request that you submit any new information for these species concerning status and threats whenever it becomes available. This information will help us monitor the status of these species and encourage their conservation.

**DATES:** The finding announced in this document was made on November 18, 2004. Although we are not pursuing further action on these species at this time, we will accept new information on these species at any time.

**ADDRESSES:** Submit any comments, information, and questions by mail to the Chief, Division of Scientific Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 750, Arlington, VA 22203; or by fax to 703–358–2276; or by e-mail to [ScientificAuthority@fws.gov](mailto:ScientificAuthority@fws.gov). Comments received will be available for public inspection, by appointment, Monday through Friday from 8 a.m. to 4 p.m. at the above address.

**FOR FURTHER INFORMATION CONTACT:** Robert R. Gabel, Chief, Division of Scientific Authority, at the above address, or by telephone, 703–358–1708; fax, 703–358–2276; or e-mail, [ScientificAuthority@fws.gov](mailto:ScientificAuthority@fws.gov).

### SUPPLEMENTARY INFORMATION:

#### Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific and commercial information, the Service make a finding within 12 months of the date of receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but

precluded from immediate proposal by other pending proposals of higher priority. Pursuant to section 4(b)(3)(C)(i) of the Act, when, in response to a petition, we find that listing a species is warranted but precluded, we must make a new 12-month finding each year until we publish a proposed rule or make a determination that listing is not warranted. These subsequent 12-month findings are referred to as "resubmitted" petition findings.

#### Previous Federal Action

On January 10, 1994, the Service received a petition dated January 1, 1994, from Ms. Dee E. Warenycia to list the seven above-mentioned species of swallowtail butterflies as threatened or endangered. As the basis for her petition, Ms. Warenycia cited the IUCN (World Conservation Union) Red Data Book, *Threatened Swallowtail Butterflies of the World* (Collins and Morris 1985), in which these species had been classified as Endangered, Vulnerable, or Rare. On May 10, 1994, the Service published a 90-day finding in the **Federal Register** (59 FR 24117) that the petition had presented substantial information indicating that the requested action may be warranted. In that notice, we initiated a status review of the seven butterflies covered by the petition, as well as 20 other butterfly taxa that were potentially of similar concern, and requested the submission of data and other information for preparation of a 12-month finding. This petition finding only covers the seven butterfly species that were the subject of the original petition. The other 20 species are potential candidate species that must be further evaluated, but for which any further action is currently precluded by higher-priority listing actions.

#### Summary of Comments and Recommendations

In response to our request for information in response to the 90-day finding, we received 14 responses from private citizens and public officials, both from the United States and abroad. Commenters addressed all but two of the seven species by name; the Fluminense swallowtail and Harris' mimic swallowtail were not specifically mentioned. One commenter supported the listing of the Jamaican kite swallowtail; one commenter supported the listing of the Kaiser-I-Hind swallowtail; and the remaining commenters opposed the listing of all of the species or the listing of specific butterflies. Species-specific information is discussed under the relevant species, below. Three main bases for opposition

to the listing of these species were: (1) The paucity of status information; (2) disagreement over the effects of over-collection; and (3) an assertion that such listings impede conservation efforts. These issues are discussed below.

1. *Paucity of status information:* Several commenters noted that information in one of the references we had used (Collins and Morris 1985) is old, outdated, or not thoroughly scientific, and that the paucity of information provides an insufficient basis for listing. According to several swallowtail butterfly experts, the best sources of worldwide information continue to be Collins and Morris (1985) and New and Collins (1991), both of which were the sole sources of information used for the 1996 IUCN species assessments (Mariano Gimenez Dixon, Program Officer, Species Survival Commission, IUCN, pers. comm. 2004). Indeed, as discussed in our August 16, 2000, **Federal Register** finding (65 FR 49958), an IUCN designation alone does not provide sufficient information to address the factors that we must consider under section 4(a)(1) the Act. An extensive literature search has revealed that few recently published treatments exist for swallowtail butterflies. Most regional works were written a decade or more ago (e.g., Brown and Heineman 1972; Tyler *et al.* 1994). None of these seven species appears in the 2003 IUCN *Red List of Threatened Species* (IUCN 2003) because they have not been re-assessed against the 1997 criteria (M. Dixon, pers. comm. 2004). There is also currently no IUCN Lepidoptera Specialist Group. In an attempt to obtain the most current information for this finding, the Service also solicited information from each range country and from other domestic and international experts. Pursuant to section 4(b)(1)(A), we have evaluated the best scientific and commercial data available to make the determinations in this finding.

2. *Effects of over-collection:* Several commenter disagreed that over-collection of insects has a significant adverse impact and noted that it is nearly impossible for the entirety of a species' eggs, larvae, pupae, and adults to be collected at a given time. However, experts generally agree that species with restricted distributions are more apt to be affected by over-collection than those with wider distributions. Substantive information obtained from experts and publications on this issue has been incorporated into this assessment, as appropriate.

3. *Such listings impede conservation efforts:* Some commenters mentioned that listing might call undue attention to

these rare butterflies, would create unnecessary restrictions on marketing, would impede further research, would provide no substantive conservation benefit, and would hinder butterfly ranching that actually benefits propagation and encourages local measures to protect the animals and their habitats. While most of these points are not statutory factors considered in listing species, we acknowledge that any substantive information that demonstrates how these factors mitigate the status of the species is useful, and where substantive information was provided, it has been considered as part of the status review.

#### Nomenclature and Biology of the Species

The seven foreign butterfly species: Harris' mimic swallowtail, the Jamaican kite swallowtail, the Oaxacan swallowtail, the Fluminense swallowtail, Hahnel's Amazonian swallowtail, the southern tailed birdwing, and the Kaiser-I-Hind swallowtail, all of which are the subject of this petition, belong to the family Papilionidae (order Lepidoptera). The Papilionidae are generally known as swallowtail butterflies, or simply as swallowtails, and will herein be collectively referred to as such. Synonyms and common names are summarized in Table 1. Nomenclature follows Morris and Collins (1985).

The Lepidoptera life cycle begins with mating. Swallowtails may brood (*i.e.*, produce offspring) once, twice, or several times per year. All Lepidoptera undergo complete metamorphosis and exhibit four distinct life stages: Egg, larva (caterpillar), pupa (chrysalis), and adult. Swallowtails reputedly maintain low population numbers and experience sporadic rebounds. Food sources vary widely. Caterpillars eat plant material (such as leaves) and may be generalists, enjoying a range of plant species, or they may be obligate feeders, feeding solely on a particular species. Adults typically feed on flower nectar. Some adults do not eat at all, others obtain nutrients from carrion, and some pre-reproductive males obtain nutrients from riversides (known as "puddling"). Swallowtails may display sexual dimorphism, wherein males are generally smaller and/or more colorful than females. Four of the petitioned species (Jamaican kite, Harris' mimic swallowtail, Fluminense swallowtail, and Southern tailed birdwing) are not sexually dimorphic; one species (Oaxacan swallowtail) displays only size dimorphism; and two species (Kaiser-I-Hind and Southern tailed birdwing) are dimorphic both in color

and size. Similarly, larvae and adults may display color polymorphism, wherein the same species exhibits different color patterns. Swallowtails may exhibit certain behaviors to increase their chance of finding a mate. "Hilltopping," for instance, is a male behavior in which they seek out a high ridge or hilltop whereupon they await the arrival of females, which tend to gravitate towards these areas. Swallowtails are all strong flyers. Many species fly several kilometers a day. After mating, females often disperse to find a new location to lay eggs. Some species disperse farther, sometimes as a group. Although dispersal is sometimes referred to as migration, for butterflies this movement may not entail a return trip. Where available, information on the lifespan, population dynamics, and current population status of each species are provided in the species assessments below.

### Summary of Factors Affecting the Species

Section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR part 424) set forth the procedures for adding species to the Federal Lists. A species may be determined to be endangered or threatened due to one or more of the following five factors described in section 4(a)(1): (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; and (E) other natural or manmade factors affecting its continued existence. These factors and their application to each of the seven species are discussed below. Each assessment begins with a species-specific status summary.

### Findings on Species for Which Listing Is Not Warranted

#### Oaxacan Swallowtail (*Papilio esperanza* Bautelspacher, 1975)

The Oaxacan swallowtail is endemic to the remote montane cloud forest of Mexico's Juárez Mountains (Oaxaca State). Larvae feed on *Magnolia dealbata* Zucc. (common name unknown) (Felipe Ramírez Ruiz de Velasco, Director General, Secretaría de Medio Ambiente y Recursos Naturales, pers. comm. 2004). Adults prefer *Eupatorium sordidum* Less. (dirty thoroughwort) and produce two annual broods, one in the spring and one in late summer (Collins and Morris 1985).

Populations are restricted to steep-sloped canyons in the Juárez Mountains (F.R.R. de Velasco, pers. comm. 2004; R. Robbins, pers. comm. 2004; Tyler *et al.* 1994). Considered a relict of modern swallowtails, this species was discovered only in 1975 and, for the first 20 years, was only known from one colony (New and Collins 1991; Tyler *et al.* 1994). New colonies were discovered in the early 1990s; the total habitat remains restricted to an area less than 100 square kilometers (Tyler *et al.* 1994). This species is listed as Vulnerable by the IUCN, due mainly to a poaching problem that existed prior to 1994 (IUCN 2003; see B., below).

**A. Present or threatened destruction, modification, or curtailment of its habitat or range:** The Juárez Mountains region is generally threatened by logging, agriculture, grazing, colonization, and potential construction of hydroelectric dams (Dávila *et al.* n.d.); however, there is no evidence that this species' specific habitat is being directly threatened (R. Robbins, pers. comm. 2004; Jorge Soberón, Director of CONABIO [the Scientific Authority of Mexico for the Convention on International Trade in Endangered Species of Wild Fauna and Flora, or CITES], pers. comm. 2004). Based on the best available information, we conclude that this species is not threatened by the present or threatened destruction, modification, or curtailment of its habitat or range.

**B. Overutilization for commercial, recreational, scientific, or educational purposes:** According to Collins and Morris (1985), only 20 specimens had been collected in the first 20 years after the species' discovery due to the fierce protection of this species by local communities. For a time, poaching became a problem because several local residents would follow the colony and remove specimens for commerce (Tyler *et al.* 1994). In the mid-1990s, several smugglers were indicted in the United States for trading in illegally collected insects, including Oaxacan swallowtails (WildlifeWebsite.com 2000). Today, Mexican experts do not consider over-collection to be a threat (F.R.R. de Velasco, pers. comm. 2004) because local communities do not allow collection or sale of the species (J. Soberón, pers. comm. 2004). There are also regulatory mechanisms in place that appear to be effectively regulating trade in this species (see D., below). Thus, this species is not threatened by overutilization for commercial, recreational, scientific, or educational purposes.

**C. Disease or predation:** There is no information to suggest that this species

is subject to any threat from disease or predation.

**D. The inadequacy of existing regulatory mechanisms:** The Oaxacan swallowtail is listed as threatened, and its larval foodplant, *Magnolia dealbata*, is also listed as endangered on Mexico's List of Species at Risk (F.R.R. de Velasco, pers. comm. 2004). Mexican law, NOM (Norma Oficial Mexicana)–059–ECOL–2001, protects listed native species of flora and fauna that have been assessed in any of four threat categories (threatened, endangered, specially protected, and likely to be extinct; INE 2003). There are no officially designated protected areas or nature reserves in the Juárez Mountains (Dávila *et al.* n.d.). However, large tracts of Oaxacan swallowtail habitat are under the strict control of indigenous Zapotec communities (J. Soberón, pers. comm. 2004), and these communities are very conservation oriented (F.R.R. de Velasco, pers. comm. 2004). The Mexican Federal government oversees several sustainable resource management units in that region (de Ferranti *et al.* 2000), and this species is not one of the resources being exploited under this regulatory framework (F.R.R. de Velasco, pers. comm. 2004).

The Oaxacan swallowtail is not listed in the Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), but there is no information to suggest that such a listing is needed. Considered threatened by commercial trade in Europe (Melisch 2000), this species is now listed on Annex B of the European Union's Council Regulation (EC) No. 338/97, which regulates imports of certain species into any country in the European Community. Annex B includes all species listed in CITES Appendix II and their look-alikes, as well as species being traded at levels that are incompatible with the survival of the species, as well as species that pose a threat to native species (CITES UK 2004). Import of an Annex B-listed species must be accompanied by information that demonstrates that the import will not detrimentally affect the conservation status of the species or its habitat (Eur-Lex 2004). Based on the above information, this species is not threatened by the inadequacy of existing regulatory mechanisms.

**E. Other natural or manmade factors affecting its continued existence:** There are no other known threats affecting this species.

In summary, in addition to the discovery of new populations, the Oaxacan swallowtail is not subject to significant threats that cause the species

to be threatened with extinction throughout a significant portion of its range. Therefore, we have determined that listing of this species is not warranted.

Southern Tailed Birdwing (*Ornithoptera meridionalis* Rothschild 1897)

The southern tailed birdwing is native to lowland primary or secondary rainforests of Indonesia and Papua New Guinea. The larvae of this genus are known to feed solely on *Aristolochia* spp. L. (birthwort). However, the identity of the specific larval foodplant of this species remains in dispute (Parsons 1999; Dr. Wari Iamo, Department of Environment and Conservation, Papua New Guinea, pers. comm. 2004). This birdwing butterfly occupies a wide range, but populations are localized, found at altitudes between 20 and 200 meters above sea level (Collins and Morris 1985; Dr. Wari Iamo, Department of Environment and Conservation, Papua New Guinea, pers. comm. 2004). In Indonesia (Irian Jaya), there are three known localities of this species (Parsons 1999). In Papua New Guinea, there are at least seven widely distributed localities, and the species appears to be reasonably common in its habitat, especially in the spring (Parsons 1999; W. Iamo, pers. comm. 2004). It is listed by the IUCN as Endangered, apparently due to threats from habitat destruction (see A., below; IUCN 2003).

**A. Present or threatened destruction, modification, or curtailment of its habitat or range:** The southern tailed birdwing populations are found in two protected areas in Papua New Guinea where wildlife harvest and habitat destruction are prohibited (W. Iamo, pers. comm. 2004). The species' low-lying habitat, in the center of its range, is vulnerable to timber extraction (W. Iamo, pers. comm. 2004). However, experts believe that properly managed butterfly farming (as discussed below, under B.) promotes habitat conservation by generating income as a viable alternative to deforestation (Dr. Rosser W. Garrison and Mr. Michael Parsons, Research Associates, Los Angeles County Museum of Natural History, California, pers. comm. 1994; Dr. L. Orsak, Director, Christensen Research Institute, Papua New Guinea, pers. comm. 1994; Dr. Scott Miller, Chair, Natural Science, The State Museum of Natural and Cultural History, Hawai'i, pers. comm. 1994; Parsons 1991, 1999). The Papua New Guinea farming program requires villagers to maintain a healthy wild population on or near their land (IFTA 1985). Based on the best available information, we have determined that this species is not

threatened by the present or threatened destruction, modification, or curtailment of its habitat or range.

**B. Overutilization for commercial, recreational, scientific, or educational purposes:** Papua New Guinea began farming the southern tailed birdwing and other native butterflies in 1978. According to the non-profit Insect Farming and Trade Agency (IFTA), established in consultation with an entomologist-ecologist, the pupae are reared and adults are sold in pairs (IFTA 2004; Parsons 1999). The Papua New Guinea farming program was endorsed by the now-defunct IUCN Lepidoptera Specialist Group (IFTA 1985). Ratched specimens are often preferred over wild-caught specimens because the wings of wild specimens are often tattered from flying (Parsons 1999). No wild-collected specimens are permitted in international trade, and designated exporters are strictly controlled (W. Iamo, pers. comm. 2004; Iamo Ila, Conservator of Fauna, Department of Environment and Conservation, Papua New Guinea, pers. comm. 1994; 1997; Gaikovina R. Kula, Acting Secretary, Department of Environment and Conservation, Papua New Guinea, pers. comm. 1994). Private citizens who are not part of IFTA must obtain certification from the Department of Environment and Conservation to carry out ranching and trading in this species (W. Iamo, pers. comm. 2004).

This species has been listed in CITES Appendix II since 1979, and CITES data suggest a recent downward trend in trade volume, from 582 specimens in 2000, to 163 specimens in 2001, and 89 specimens in 2002 (J. Caldwell, pers. comm. 2004; W. Iamo, pers. comm. 2004). All of this trade has originated from Papua New Guinea, and most of it has been recorded as ratched specimens. A 2000 market study revealed that this species was threatened by commerce in Germany (Melisch 2000), where the market price was reportedly US\$8700 per pair (Schütz 2000). The southern tailed birdwing is now listed on the European Commission's Annex B, which regulates imports of certain species into Europe, and requires that trade in these species is not detrimental to the survival of wild populations (see Oaxacan swallowtail, D.). While the reason for the decrease in trade volume for this species is unknown (W. Iamo, pers. comm. 2004), its listing on Annex B may account for the decrease in trade because several of the major importers are from European countries. This information suggests that this species is not threatened by overutilization for commercial,

recreational, scientific, or educational purposes.

**C. Disease or predation:** Parasitic flies have been known to attack southern tailed birdwings in the wild (Collins and Morris 1985). However, there is no specific information to suggest that these parasites are currently threatening existing populations, and we are unaware of any other disease or predators that pose a threat to this species. Thus, we conclude that disease or predation is not a current threat to this species.

**D. The inadequacy of existing regulatory mechanisms:** In 1966, Papua New Guinea declared the southern tailed birdwing protected under the Fauna Protection Control Act, which requires an amendment to the legislation to allow any controlled utilization of the species. Wild collection is prohibited, and wild-collected specimens are banned from international trade (W. Iamo, pers. comm. August 2004; G.R. Kula, pers. comm.; 1994 Parsons 1991). Only properly CITES-permitted adults are allowed in international trade (IFTA 2004), and import of these specimens into Europe requires a further non-detriment finding in addition to the CITES findings made by exporting countries (see D., above). Based on the above information, this species is not currently threatened by the inadequacy of existing regulatory mechanisms.

**E. Other natural or manmade factors affecting its continued existence:** There is no information to suggest that this species is subject to threats other than those listed above.

In summary, in addition to the discovery of new populations, the southern tailed birdwing is not subject to significant threats that cause the species to be threatened with extinction throughout a significant portion of its range, and therefore we have determined that listing of this species is not warranted.

#### *Findings on Species for Which Listing Is Warranted but Precluded*

Harris' Mimic Swallowtail (*Eurytides lysithous harrisianus* Hübner 1821)

Harris' mimic swallowtail is native to sub-coastal woods on unflooded fringes of "restinga" (swamp) habitat in the Atlantic Forest of Brazil. Paraguay also has been reported as a range country (Collins and Morse 1985; Funet 2004), but there is no information on colonies there. Larvae feed on *Annona acutifolia* Sass. ex R.E. Fries (common name unknown). Juveniles are occasionally reported on *Rollinia laurifolia* Schltdl. (common name unknown). Adults feed

on species in a variety of genera from several plant families (including Annonaceae [custard-apple family], Asteraceae [daisy family], Fabaceae [legume family], Rubiaceae [madder family], and Verbenaceae [verbena family]). This subspecies is not listed in the 2003 IUCN Red List of Threatened Species (IUCN 2003).

Previously reported in the two Brazilian states of Espirito Santo and Rio de Janeiro, this subspecies is confirmed only in the latter locality (Brown 1996). This has been interpreted as an indication that the subspecies has been extirpated from Espirito Santo (Collins and Morse 1985; Xerces 2004). However, Brown postulates that this could be due to misidentification due to mimicry (Keith S. Brown, Jr., Livre-Docent, Universidade Estadual de Campinas, Brazil, pers. comm. 2004). Swallowtails occupying similar ranges may exhibit mimicry such that unrelated species resemble each other. The specific purpose of this mimicry is unknown, but it may be a defense mechanism. Although scientifically unproven, one form of mimicry, known as Batesian mimicry, consists of a palatable species (the mimic) that resembles an unpalatable species (the model). It is theorized that a predator (such as a bird) attempting to eat the unpalatable model will avoid that and other similar-looking butterflies in the future. For such mimicry systems to be effective, it is generally believed that the mimic must maintain lower population numbers than the model.

Harris' mimic swallowtail is polymorphic, mimicking at least three species of *Parides* throughout its range. There are two Harris' mimic swallowtail morphs (color patterns): the *sebastianus-rurik* morph, which mimics *Parides zacyanthus* Fabricius (common name unknown) and the subspecies *Parides nephalion* Godart (cattle heart swallowtail); and, the *ascanius* morph, which mimics the Fluminense swallowtail, also a subject of this petition finding (Collins and Morse 1985; K.S. Brown, Jr., pers. comm. 2004). The *sebastianus-rurik* morph is less common than the *ascanius* morph, the latter of which constituted about 70% of the population during a nearly decade-long mark-recapture study (Brown 1996). The *ascanius* morph generally persists farther north than the Fluminense swallowtail. Thus, it is possible that Harris' mimic swallowtail exists to the north, in Espirito Santo, where suitable habitat exists, but that it has been mistaken for the Fluminense swallowtail (Brown 1991; Otero and Brown 1984; Dr. Robert Robbins, Research Entomologist, National

Museum of Natural History, Department of Entomology, Smithsonian Institution, Washington, DC pers. comm. 2004).

Brown (1996) monitored the only known colony of the species (in Rio de Janeiro) from 1984 to 1991, during which time the population size ranged from 50 to 250 individuals. Adults fly at an elevation of 1000 meters, and brood only once per year, being found almost exclusively from September to December. This colony is currently reported to be viable, vigorous, and stable (K. Brown, Jr., pers. comm. 2004). In 1997, another colony of unknown size was discovered in the Poco das Antas Biological Reserve (Rio de Janeiro), where it had not been seen in 30 years. According to Brown, it is likely that more colonies exist between these two known localities and in other places, and he further states that their flight habits "do not favor recording by visitors \* \* \* it is also very hard to find, see, or capture" (K. Brown, Jr., pers. comm. 2004).

*A. Present or threatened destruction, modification, or curtailment of its habitat or range:* Habitat destruction prompted experts to consider this species to be either endangered (Collins and Morris 1985; Tyler *et al.* 1994) or critically endangered (Brown 1996). The mix of dense and open habitat preferred by adult Harris' mimic swallowtails is no longer the dominant vegetation type in Rio de Janeiro. With this habitat almost entirely gone, the subspecies is found only in sub-coastal areas adjacent to "restinga" (swamp) habitat (Otero and Brown 1984). Considered the most endangered vegetation type in the world (Conservation International 2004), restinga swampland has been converted to rice fields and drained for urban development and cattle pastures (Otero and Brown 1984; WWF 2004a). In 1985, development threatened the only known colony (Collins and Morris 1985). The State of Rio de Janeiro harbors the densest human population in Brazil, and the city suffers from air and water pollution (CIA 2004; Conservation International 2004). The Poco das Antas Reserve (site of the recently discovered colony of Harris' mimic swallowtail) is plagued by fires. Established in 1973 and presently encompassing an area of approximately 6,883 square meters (WWF 2004b), the Reserve has suffered at least six fires since 1989 (Anonymous 1997; Bryant 2002; Kyodo World Service 2000; Reuters 2002; Singapore National Zoo 2000). At least two of these fires were attributed to human causes (Anonymous 1997; Kyodo World Service 2000). Fire breaks have been constructed in the Reserve to help contain future fires, but regeneration of

previously burned areas has been reportedly slow (Singapore National Zoo 2000). Thus, we conclude that this subspecies is threatened by the present or threatened destruction, modification, or curtailment of its habitat or range throughout a significant portion of its range, although thus far we are not aware of a direct impact on the two known colonies of this species.

*B. Overutilization for commercial, recreational, scientific, or educational purposes:* There is no documentation of overutilization of this subspecies.

However, it is possible that this species is inadvertently entering trade misidentified as *Parides* spp., although there is no specific information on this.

*C. Disease or predation:* There is no information to suggest that this species is subject to any threat from disease or predation.

*D. Inadequacy of existing regulatory mechanisms:* Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis; Brazil's Environmental Ministry (IBAMA) listed this species as "strictly protected" in 1989. As such, collection and trade are prohibited (Brown 1996). It is unclear whether the discovery of a second colony in the Poco das Antas Biological Reserve, home of the charismatic golden lion tamarin (*Leontopithecus rosalia*), will benefit Harris' mimic swallowtail. The Reserve continues to be threatened by inadequate protection, unresolved land disputes, and illegal encroachment by landless peasants (Conservation International 2004). In 2002, criteria were established for land use and occupation within a newly established environmentally protected basin along the river where the new population of this species was found. How or whether these criteria account for invertebrates is unknown (WWF 2004b). Thus, the regulatory mechanisms in existence may be inadequate to protect this species.

*E. Other natural or manmade factors affecting its continued existence:* Other than the above-mentioned fires, some of which may have been natural events, there are no other factors known to affect this species' continued existence.

In summary, although additional populations may exist, there are only two confirmed localities of Harris' mimic swallowtail. This subspecies appears to be generally threatened by habitat destruction (clearing and fire) and the potential of overutilization for commercial purposes. While regulatory mechanisms are in place to control commercial trade, it is unclear whether existing regulatory mechanisms are adequately protecting the species' habitat. The combination of these factors threatens this subspecies

throughout a significant portion of its range.

Harris' mimic swallowtail is a subspecies that faces threats that are low to moderate in magnitude and non-imminent. It therefore receives a priority rank of 12.

Jamaican kite Swallowtail (*Eurytides marcellinus* Doubleday 1846)

The Jamaican kite is endemic to Jamaica. The only known larval foodplant is *Oxandra lanceolata* Baill. (West Indian lancewood) (Bailey 1994; Brown and Heineman 1972; Garraway *et al.* 1993; Xerces 2004). There is no information as to adult food preferences. Despite the presence of the larval foodplant throughout the island, and although the species probably disperses only within 3 kilometers of its breeding site, the only confirmed breeding site is Rozelle, located in the extreme southeastern Parish of St. Thomas (Bailey 1994; Brown and Heineman 1972; Garraway *et al.* 1993; R. Robbins, pers. comm. 2004; Strong and Johnson 2001; WRC 2001; Dr. T.W. Turner, President, Caribbean Surveys Ltd., Florida, pers. comm. 1994). Reputedly unpredictable and sporadic in appearance, the Jamaican kite swallowtail generally maintains low population levels, but becomes locally abundant for a week or two at its only known breeding site, where it regularly broods in the early summer and sometimes again in early fall (Collins and Morris 1985; Garraway *et al.* 1993; Smith *et al.* 1994). Episodic population explosions have been recorded, with large westerly migrations of males when population numbers are high (Brown and Heineman 1972; Collins and Morris 1985; Garraway *et al.* 1993). Large numbers were reported in western parishes in the 1940s and 1950s (Bailey 1994; Garraway *et al.* 1993). Adults have recently been sighted in the parishes of St. Andrew, St. Ann, Trelawny, and Westmoreland on the extreme western coast, and the species has reportedly visited Florida (Bailey 1994; Funet 2004; Smith *et al.* 1994; WRC 2001).

*A. Present or threatened destruction, modification, or curtailment of its habitat or range:* Mining operations, deforestation, and a lack of public awareness for conservation issues are problematic on the entire island (WWF 2001). The only confirmed breeding site has undergone extensive habitat destruction for agriculture and industry, prompting many experts to designate the Jamaican kite swallowtail as Vulnerable (Collins and Morris 1983; IUCN 2003; New and Collins 1991; Tyler *et al.* 1994). The larval hostplant, West Indian lancewood (native to

Jamaica, Cuba, Hispaniola, and Puerto Rico), is a commercially desirable tree. Its yellow wood is used to make fishing rods, pool cues, and other products (Windsor Plywood 2004). This tree species reportedly does poorly in disturbed habitats (Collins and Morris 1985). Habitat destruction continues to be a primary threat to this species (Dr. Audette Baillie, Research Fellow, Department of Life Sciences, University of the West Indies, Jamaica, pers. comm. 2004).

*B. Overutilization for commercial, recreational, scientific, or educational purposes:* A survey of German markets concluded that this species is threatened by commercial trade (Melisch 2000). Schütz (2000) reported the asking price for a female Jamaican kite swallowtail as US\$150. This species is neither listed under CITES nor on the European Commission's Annex B, both of which regulate international trade. The Jamaican kite swallowtail is not bred in captivity and, in particular, there is no organized captive-breeding program for this species in Jamaica (A. Baillie, pers. comm. 2004). Thus, overutilization for commercial purposes may be a threat to the Jamaican kite swallowtail.

*C. Disease or predation:* There is no information to suggest that this species is subject to any threat from disease or predation.

*D. Inadequacy of existing regulatory mechanisms:* Listed as an endemic species, Jamaica does not consider the Jamaican kite swallowtail to be threatened, and therefore, it is not protected by the Wildlife Protection Act of 1998 (NEPA 2004a); according to the National Environment and Planning Agency (NEPA), this protects only "specified species" (NEPA 2004b). However, all requests to collect endemic wildlife in Jamaica must be directed to NEPA for approval (A. Baillie, pers. comm. 2004). The protected area network has been plagued with staff shortages and inadequate fines for violators (WWF 2001). The John Crow Mountains, spanning several parishes where adult Jamaican kite swallowtails have been seen, was declared a protected area in 1993 (Anonymous n.d.). Cockpit Country, the terrain of which has made it veritably impenetrable to humans, became part of the Parks-in-Peril project in 2001. Cockpit Country is located in Trelawny Parish, where adult Jamaican kite swallowtails have recently been sighted. The status of the species in this area may be clarified as researchers conduct surveys for the CITES Appendix-I swallowtail (*Pterourus homerus*) occupying the same area (TNC 2004;

WRC 2002). The presence of the Jamaican kite swallowtail in Rozelle and Cockpit Country has prompted NEPA to seek protected-area status for both locations within the next 5–7 years (Anonymous 2003). It is unclear how or whether the Jamaican protected-area network benefits the Jamaican kite swallowtail or protects it from the above-mentioned potential threats of habitat loss and commercial utilization.

*E. Other natural or manmade factors affecting its continued existence:* Jamaica lies within the Atlantic hurricane belt and is subject to severe tropical weather, such as tropical waves, tropical depressions, tropical storms, and hurricanes (Mahlung 2001). In the last 16 years, Jamaica has been devastated by a tropical storm (George 1998), a Category 3 hurricane (Gilbert 1988), and two Category 5 hurricanes (Mitch 1998; Ivan 2004). Hurricanes Gilbert and Ivan caused extensive damage throughout the island, including Rozelle, the only known breeding site for this species. In 1989, 75 percent of Rozelle Beach was eroded, and extensive beach erosion occurred again in 2004 (Anderson 1989; Lehman 1999; Go Local Jamaica 2004). These stochastic events are likely to have an adverse effect on this species' continued existence.

In summary, the Jamaican kite swallowtail has only one known breeding site. This species is threatened by habitat destruction from human activity and catastrophic natural storm events. Storms, such as hurricanes, can also directly kill these butterflies. The species is also potentially threatened by collection and inadequate protection of its habitat; this species is not specifically protected by law. The combination of these factors potentially threatens this species throughout a significant portion of its range.

The Jamaican kite swallowtail is a species that does not represent a monotypic genus. It faces threats that are high in magnitude, but non-imminent. It therefore receives a priority rank of 5.

Fluminense Swallowtail (*Parides ascanius* Cramer 1775)

The Fluminense swallowtail is endemic to Brazil. Residing in "restinga" (swamp) habitat in the Atlantic Forest of Brazil, adults can be found flying in scrubby to urbanized locations (K.S. Brown, Jr., pers. comm. 2004). The only known larval foodplant is the poisonous vine *Aristolochia macroura* Gomez (Dutchman's pipe), which has a wider distribution than the butterfly itself (Otero and Brown 1984). There is no information as to adult

foodplant preferences. This species has been reported from three Brazilian States: Rio de Janeiro, Espirito Santo, and Sao Paulo. Although ideal habitat exists in all three States, Rio de Janeiro harbors the only colonies confirmed in the past 50 years (Otero and Brown 1984), perhaps due to mislabeling of initial collections (K.S. Brown, Jr., pers. comm. 2004). Assessed by the IUCN as Vulnerable, the species is sparsely distributed at best, becoming seasonally common, with sightings of up to 50 individuals in one morning (IUCN 2003; Otero and Brown 1984; Tyler *et al.* 1994).

Populations are localized but colonies require a large area to maintain a viable population (Otero and Brown 1984). In a study conducted from 1984 to 1991, Brown (1996) found that a colony varied greatly (from 20 to 100 individuals) from year to year, and individuals flew distances of 1000 meters. Although it was presumed that many populations had gone extinct since 1970 and that no new colonies remained to be discovered, other large colonies have been found in Rio de Janeiro state, both far inland and within the Poco das Antas Biological Reserve (K.S. Brown, Jr., pers. comm. 2004; Collins and Morris 1985; Otero and Brown 1984). In a recent visit to Poco das Antas, Dr. Robert Robbins (pers. comm. 2004) reported that the Fluminense swallowtail was "everywhere." All colonies continue to be monitored (K.S. Brown, Jr., pers. comm. 2004).

*A. Present or threatened destruction, modification, or curtailment of its habitat or range:* The range of this species overlaps with Harris' mimic swallowtail, and the restinga swampland habitat upon which the Fluminense swallowtail depends for breeding is threatened by urbanization, conversion for cultivation and cattle ranching, and arson (see Harris' mimic swallowtail, A., above). The Fluminense swallowtail is particularly threatened by arson in the Poco das Antas Biological Reserve, because this is the only protected area large enough to maintain a viable Fluminense swallowtail colony (Otero and Brown 1984). Thus, a significant portion of this species' range is potentially threatened with habitat destruction.

*B. Overutilization for commercial, recreational, scientific, or educational purposes:* This butterfly is "easy to catch," and although "many people have bred the species," there is no formal effort to ranch the species (K.S. Brown, Jr., pers. comm. 2004). A survey of German markets reported female Fluminense swallowtails selling for US\$560 (Melisch 2000; Schütz 2000),

which is an indicator of the potential threat from commercial trade. This species is advertised for sale in Japan with the provision that no sales can be made of dry or live insects to the "United States of America from Central and South America also CITES butterflies" (<http://www.worldinsect.com/>). This species is not listed under CITES but is listed on the European Commission's Annex B, which regulates imports of certain species into Europe (see *Papilio esperanza*, B.). It is unclear how this has affected trade in this species. Based on the above information, this species is potentially threatened by overutilization for commercial purposes.

*C. Disease or predation:* There is no information to suggest that this species is subject to any threat from disease or predation.

*D. Inadequacy of existing regulatory mechanisms:* In 1973, the Fluminense swallowtail became the first insect placed on Brazil's list of animals threatened with extinction, and the species is currently considered imperiled by IBAMA, the Brazilian Environment Ministry (MMA 2004; Otero and Brown 1984). Although the species is strictly protected from commerce, fines are apparently either nonexistent or too nominal to dissuade commercial collection (K.S. Brown, Jr., pers. comm. 2004). It is also unclear what measures have been taken to reduce habitat destruction, for which the species was originally listed in 1973 (Otero and Brown 1984). The protection afforded Fluminense swallowtail populations within Poco das Antas Biological Reserve is also unknown (see Harris' mimic swallowtail, D.). Thus, the regulatory mechanisms in existence may be inadequate to protect this species.

*E. Other natural or manmade factors affecting its continued existence:* Other than the fires, mentioned above, some of which may have been natural events, there are no other factors known to affect this species' continued existence.

In summary, there are several known Fluminense swallowtail colonies, each requiring a large area to maintain a viable population, and only one occurs within a protected area. This species is threatened by habitat destruction and the potential inadequacy of regulatory mechanisms to protect the species' habitat, particularly in the Poco das Antas Biological Reserve, considered the only protected area large enough to maintain a viable population. This species is also potentially threatened by overutilization for commercial purposes and inadequate penalties to thwart commercial collection. The combination

of these factors potentially threatens this species throughout a significant portion of its range.

The Fluminense swallowtail is a species that does not represent a monotypic genus. It faces threats that are high in magnitude but non-imminent. It therefore receives a priority rank of 5.

#### Hahnel's Amazonian Swallowtail (*Parides hahneli* Staudinger 1882)

Hahnel's Amazonian swallowtail is endemic to three localities in the sandy tributaries of the lower middle Amazon Basin in Brazil (Collins and Morris 1985; New and Collins 1991; Tyler *et al.* 1994). The identification of the larval hostplant is unknown, but it is believed to be either *Aristolochia lanceolatorato* S. Moore (common name unknown) or *A. acutifolia* Sass. ex R.E. Fries (common name unknown). This species occupies a fairly wide range, but "the area of its range is very lightly populated" (K.S. Brown, Jr., pers. comm. 2004). The restricted nature of its habitat was determined only in the 1990s (R. Robbins, pers. comm. 2004). Populations are characterized as very local, rare, and patchy in distribution (Collins and Morris 1985; Tyler *et al.* 1994). Until 1973, this species was known only in one location; two additional localized colonies were discovered in 1973 (Brown 1996; Collins and Morris 1985). There have been no recent discoveries of new populations (K.S. Brown, Jr., pers. comm. 2004). This species is sympatric (occupies the same range) with several butterflies, including at least two, *Methona* and *Thyrides* (common names unknown), that it reportedly mimics, and the subspecies *Parides chabrias ygdrasilla* (common name unknown) (Brown 1996). In 1996, when this species was last assessed by the IUCN, there was insufficient data to determine its status (IUCN 2003).

*A. Present or threatened destruction, modification, or curtailment of its habitat or range:* Citing potential threats from habitat destruction, New and Collins (1991) considered the possibility that this species was critically threatened. Because the species' ecological requirements are not well understood, habitat destruction could be a factor, but specific threats cannot be clearly identified. Therefore, we are unable to determine whether this species is or may be threatened by habitat destruction.

*B. Overutilization for commercial, recreational, scientific, or educational purposes:* Although the species flies high, making it harder to catch, "local people can at times effectively reduce



populations since they know [this species'] habits'-(K.S. Brown, Jr., pers. comm. 2004). Many experts agree that species with restricted distributions or localized populations, such as Hahnel's Amazonian swallowtail, are more vulnerable to over-collection than those with a wider distribution (K.S. Brown, Jr., pers. comm. 2004; R. Robbins, pers. comm. 2004). Commercial exploitation is a potential threat to this species (Melisch 2000; New and Collins 1991; Schütz 2000; Tyler *et al.* 1994). A survey of German markets found swallowtails to be among the most popular species being sold; Hahnel's Amazonian swallowtail has sold for USD\$200 per pair (Schütz 2000). The species is not listed under CITES. It is listed on the European Commission's Annex B, which regulates imports of certain species into Europe (see *Papilio esperanza*, B.), but it is unclear how this listing has affected trade in this species. As such, we believe that overutilization for commercial purposes may constitute a threat to the survival of the species.

**C. Disease or predation:** There is no information to suggest that this species is subject to any threat from disease or predation.

**D. Inadequacy of existing regulatory mechanisms:** Hahnel's Amazonian swallowtail is listed as a species "under study" (Brown 1996). It is not listed on the Brazilian list of animals threatened with extinction (MMA 2004). This may be due to the species' wide range and tendency to be locally common (K.S. Brown, Jr., pers. comm. 2004).

**E. Other natural or manmade factors affecting its continued existence:** There is potential for foodplant competition with a sympatric butterfly, *Parides chabrias ygdrasilla* (common name unknown) (Collins and Morris 1985).

Hahnel's Amazonian swallowtail is known from only three localities and consists of highly localized populations, which makes them potentially vulnerable to over-collection.

Hahnel's Amazonian swallowtail is a species that does not represent a monotypic genus. It faces threats that are low to moderate in magnitude, and the immediacy of the threat is non-imminent. Therefore, it receives a priority rank of 11.

Kaiser-I-Hind Swallowtail (*Teinopalpus imperialis* Hope 1843)

The Kaiser-I-Hind swallowtail is native to the Himalayan regions of Bhutan, China, India, Laos, Myanmar, Nepal, Thailand, and Vietnam. Preferring undisturbed montane deciduous forests, this fast-flying species flies near the treetops at altitudes of 1500–3050 m (Bond 1964;

Igarashi 2001; Tordoff *et al.* 1999). The larval foodplant may differ across the species' range, including *Magnolia campbellii* Hook.f. and Thompson in China (Yen and Yang 2001); *Magnolia* spp. L. in Vietnam (Funet 2004); *Daphne* spp. L. in India, Nepal, and Myanmar (Funet 2004); and *Daphne nipalensis* (authority and common name unknown) in India (Robinson *et al.* 2004). Though this species was first described in 1843, its life history was not well characterized until 1986 (Igarashi and Fukuda 2000). The Kaiser-I-Hind swallowtail produces two broods per year (spring and late summer) (Igarashi 2001). Females are much larger and rarer than males (Bond 1964).

The species' range is larger today than known at the time of the original petition, with confirmed reports in Laos, Thailand, and Vietnam (FAO 2001; Igarashi 2001; Masui and Uehara 2000; Osada *et al.* 1999). The range of the Kaiser-I-Hind swallowtail overlaps with that of its close relative, the golden Kaiser-I-Hind swallowtail (*Teinopalpus aureus*) in Laos and Vietnam. The golden Kaiser-I-Hind swallowtail, which is listed in CITES Appendix II, is generally larger than the Kaiser-I-Hind swallowtail (Masui and Uehara 2000; Igarashi 2001). The IUCN lists the Kaiser-I-Hind swallowtail in the category of least concern (IUCN 2003), but it is considered "rare" by Collins and Morris (1985) and Tyler *et al.* (1994). Despite its widespread distribution, local populations are not abundant (Collins and Morris 1985). The actual population status in Bhutan, India, Laos, Myanmar, and Thailand is unknown, although it has been confirmed to be extant in Nepal, Thailand, and Vietnam. No butterflies are listed on the 1992 Red Data Book of Vietnam (Trai and Richardson 1999). In 1994, Chinese experts considered the species to be in "immediate danger of extinction," with no verified occurrences in half a century (Professor Wang Sung, Executive Vice Chairman of the Endangered Species Scientific Commission of China, pers. comm. 1994). However, recent publications indicate that the species remains extant in China, although there is no information on population status (Pai and Wang 1998; Pai *et al.* 1996; Watanabe 1997; Yen and Yang 2001).

**A. Present or threatened destruction, modification, or curtailment of its habitat or range:** Despite a Chinese moratorium on logging in 1999, Kaiser-I-Hind swallowtail populations continued to be threatened by commercial and illegal logging in 2001 (Yen and Yang 2001). In Nepal, the species is threatened by limestone

mining activities (E-Law 2002), and a recent report to by the Nepal Forest Ministry considers habitat destruction to be a critical threat to biodiversity, including this species (HMGN 2002). In Vietnam, the species is confirmed in three Nature Reserves, in areas where disturbance levels are low (Lien 2003; Tordoff *et al.* 1999; Trai and Richardson 1999). Habitat degradation (deforestation and land conversion) is a primary threat to this species in Thailand (FAO 2001). Thus, this species is known to be threatened by habitat destruction in some of its countries.

**B. Overutilization for commercial, recreational, scientific, or educational purposes:** The Kaiser-I-Hind swallowtail was listed in CITES Appendix II in 1987 and is listed in Annex B of the European Union's Council Regulation (see Oaxacan swallowtail, D.). CITES trade data, obtained from the World Conservation Monitoring Centre, indicate that only 152 Kaiser-I-Hind swallowtail specimens were traded between 1991 and 2002, and originated primarily from China (John Caldwell, WCMC, pers. comm. 2004). Nearly half of these were imported into the United States, all originating from China and declared as wild-collected. In a 3-month period (June–August 2004), a dealer in China sold 23 unmounted specimens: 4 to one buyer in Germany and the rest to buyers in the United States. The average selling price was US\$107 for females and US\$45 for males. This commercial activity could not be compared with CITES trade data because the 2004 CITES data will not be available until October 31, 2005. The Kaiser-I-Hind and golden Kaiser-I-Hind swallowtails resemble each other and both are commercially valuable. The species' ranges overlap in at least two, possibly three, range countries, so there is a potential for both species to be collected due to their resemblance to each other.

There are unconfirmed reports that this species is being captive-bred in China (Yen and Yang 2001), where it is considered to be more valuable than the southern tailed birdwing (Watanabe 1997). In Nepal, collectors would commonly lie in wait for the butterflies in mountaintop encampments (New and Collins 1991). According to the Nepal Forestry Ministry, the high commercial value of endangered species on the local and international market may result in local extinctions of many of Nepal's most endangered plants and animals, including this species (HMGN 2002). Unsustainable collection (for consumption or souvenirs) is a primary threat to this species in Thailand (FAO 2001). Thus, overutilization for commercial purposes threatens this



species throughout a significant portion of its range.

*C. Disease or predation:* There is no information to suggest that this species is subject to any threat from disease or predation.

*D. Inadequacy of existing regulatory mechanisms:* The Kaiser-I-Hind swallowtail is not protected under the Wildlife Conservation law of Taiwan (Yen and Yang 2001). In Nepal, where it is listed as threatened, the species is protected by the National Parks and Wildlife Conservation Act of 1973 (HMGN 2002). Protective legislation in India and Nepal has previously been considered ineffective (New and Collins 1991). In Thailand, the Kaiser-I-Hind swallowtail is listed under the 1992 Wildlife Reservation and Protection Act of 1992, which makes it illegal to collect (whether wild or dead) or to have the species in one's possession (FAO 2001). Despite regulation in international trade by CITES and on Annex B in Europe, we believe that this species is threatened by a lack of specific regulatory mechanisms for the species itself as well as its habitat throughout a significant portion of its range.

*E. Other natural or manmade factors affecting its continued existence:* A review of the available information did not indicate that this species was threatened by other factors.

In summary, the Kaiser-I-Hind swallowtail is a wide-ranging species that is experiencing varying degrees of threat throughout its range. There is potential for habitat destruction in at least four range countries, and collection for commercial purposes is reported throughout its range. However, regulatory mechanisms may not be adequately protecting the species from these threats. The combination of these factors potentially threatens this species throughout a significant portion of its range.

The Kaiser-I-Hind swallowtail does not represent a monotypic genus. It faces threats that are low to moderate in

magnitude and imminent. It therefore receives a priority rank of 8.

### Summary of Findings

The Service has carefully assessed the best scientific and commercial information available regarding the present and future threats facing the seven foreign butterfly species in this petition. Based on our review, we find that two species, the Oaxacan swallowtail and southern tailed birdwing, do not warrant listing under the Act because, as summarized above for each of these species, new populations have been discovered and neither species is subject to significant threats that cause the species to be threatened with extinction throughout a significant portion of its range. Further, both are strictly protected within their respective ranges. Thus, this determination of not warranted for these two butterfly species constitutes the agency's final action on these species at this time. However, we request that you submit any new information for these species concerning status and threats whenever it becomes available. This information will help us monitor the status of these species and encourage their conservation.

We also find, as discussed above, that the remaining five species, Harris' mimic swallowtail, the Jamaican kite swallowtail, the Fluminense swallowtail, Hahnel's Amazonian swallowtail, and the Kaiser-I-Hind swallowtail, warrant listing as threatened. However, the publication of a proposed rule to list these species remains precluded by other higher-priority listing actions. Section 4(b)(3)(B)(iii) of the Act indicates that the Service may make warranted-but-precluded findings with regard to cases in which (1) an immediate proposed rule is precluded by higher-priority proposals to list species as endangered or threatened, and (2) expeditious progress is being made on other listing measures. Expeditious progress in listing endangered and threatened species is

being made, and our progress on listing species previously found to be warranted but precluded is reported annually in the **Federal Register**. Our most recent annual notice on these 12-month "resubmitted" petition findings on foreign species was published on May 21, 2004 (69 FR 29354). We published a complete description of our listing priority system on September 21, 1983 (48 FR 43098). The listing priority number for each of the five butterfly species found to be warranted but precluded is presented in Table 1. Other foreign species, comprising a large number of birds covered by petitions received in 1980 and 1991, have listing priority numbers that are equal to or higher than those of at least some of the butterflies.

As required by Section 4(b)(3)(C)(i) of the Act, the Service will reassess the warranted-but-precluded finding when we publish our annual notice on resubmitted petition findings for foreign species. The Service seeks data and comments from the public on this petition finding. We will continue to monitor the status of these species as new information becomes available. Our review of any new information received will determine if a change in status is warranted, including the need to list any species on an emergency basis.

### References Cited

A complete list of all references cited in this petition finding is available on request from the Division of Scientific Authority (*see ADDRESSES* section).

### Author

The primary author of this document is Dr. Patricia De Angelis, Division of Scientific Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 750, Arlington, Virginia 22203.

### Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

TABLE 1.—PETITION FINDING FOR SEVEN FOREIGN SPECIES OF SWALLOWTAIL BUTTERFLIES (FAMILY: PAPILIONIDAE)

[R=listing not warranted/removed; C=listing warranted but precluded]

Status		Scientific name	Synonyms	Common name	Historic range
Category	Priority				
C .....	12 .....	<i>Eurytides lysithous harrisianus</i> .	<i>Graphium lysithous harrisianus</i> ; <i>Mimoides lysithous harrisianus</i> .	Harris' mimic swallowtail .....	Brazil, Paraguay (?).
C .....	5 .....	<i>Eurytides marcellinus</i> .....	<i>Graphium marcellinus</i> ; <i>Neographium marcellinus</i> ; <i>Protographium marcellinus</i> (nom. inv.); <i>Protesilaus marcellinus</i> .	Jamaican kite swallowtail Blue swallowtail.	Jamaica.

TABLE 1.—PETITION FINDING FOR SEVEN FOREIGN SPECIES OF SWALLOWTAIL BUTTERFLIES (FAMILY: PAPILIONIDAE)—Continued

[R=listing not warranted/removed; C=listing warranted but precluded]

Status		Scientific name	Synonyms	Common name	Historic range
Category	Priority				
R .....	n/a .....	<i>Papilio esperanza</i> .....	<i>Pterourus esperanza</i> <i>Heracles esperanza</i> .	Oaxacan swallowtail, La llamadora.	Mexico.
C .....	5 .....	<i>Parides ascanius</i> .....	n/a .....	Fluminense swallowtail, Ascanius swallowtail.	Brazil.
C .....	11 .....	<i>Parides hahneli</i> .....	n/a .....	Hahnel's Amazonian swal- lowtail.	Brazil.
R .....	n/a .....	<i>Ornithoptera meridionalis</i> ....	<i>Troides meridionalis</i> ; <i>Schoenbergia</i> <i>meridionalis</i> .	Southern tailed birdwing .....	Indonesia, Papua New Guinea.
C .....	8 .....	<i>Teinopalpus imperialis</i> .....	n/a .....	Kaiser-I-Hind swallowtail, Emperor of India.	Bhutan, China, India, Laos, Myanmar, Nepal, Thai- land, Vietnam.

Dated: November 18, 2004.

**Marshall P. Jones, Jr.,**

Deputy Director, Fish and Wildlife Service.

[FR Doc. 04-26611 Filed 12-6-04; 8:45 am]

BILLING CODE 4310-55-P

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric  
Administration****50 CFR Part 679**[Docket No. 041117321-4321-01; I.D.  
110904D]

RIN 0648-AS37

**Fisheries of the Exclusive Economic  
Zone Off Alaska; Aleutian Islands  
Subarea Directed Pollock Fishery****AGENCY:** National Marine Fisheries  
Service (NMFS), National Oceanic and  
Atmospheric Administration (NOAA),  
Commerce.**ACTION:** Proposed rule; request for  
comments.

**SUMMARY:** NMFS issues a proposed rule that would implement Amendment 82 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). Amendment 82, if approved, would establish a framework for management of the Aleutian Islands subarea (AI) directed pollock fishery. This action is necessary to implement provisions of the Consolidated Appropriations Act of 2004 that require the AI directed pollock fishery to be allocated to the Aleut Corporation for the purpose of economic development of Adak, Alaska. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMP,

Consolidated Appropriations Act of 2004, and other applicable laws.

**DATES:** Written comments must be received by January 21, 2005.**ADDRESSES:** Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Lori Durall. Comments may be submitted by:

- Mail: P.O. Box 21668, Juneau, AK 99802.
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.
- Fax: 907-586-7557.

- E-mail: [BSA82-0648-AS37@noaa.gov](mailto:BSA82-0648-AS37@noaa.gov). Include in the subject line the following document identifier: AI pollock proposed rule. E-mail comments, with or without attachments, are limited to 5 megabytes.

- Webform at the Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the instructions at that site for submitting comments.

Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) prepared for the proposed rule, the 2000 FMP level biological opinion, and the 2001 biological opinion and its June 2003 supplement for the Steller sea lion protection measures may be obtained from the addresses stated above or from the Alaska Region NMFS website at [www.fakr.noaa.gov](http://www.fakr.noaa.gov).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS, Alaska Region, and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or fax to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:**Melanie Brown, 907-586-7228 or [melanie.brown@noaa.gov](mailto:melanie.brown@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands management area (BSAI) are managed under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801, *et seq.* Regulations implementing the FMP appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The Council has submitted Amendment 82 for review by the Secretary of Commerce, and a Notice of Availability of the amendment was published in the **Federal Register** on November 16, 2004 (69 FR 67107), with comments on the amendment invited through January 18, 2005. Comments may address the FMP amendment, the proposed rule, or both, but must be received by January 18, 2005, to be considered in the approval/disapproval decision on the FMP amendment. All comments received by that time, whether specifically directed to the FMP amendment or to the proposed rule, will be considered in the approval/disapproval decision on the FMP Amendment.

**Background**

The Consolidated Appropriations Act of 2004 (Public Law (Pub. L.) 108-199) was signed into law on January 23, 2004. Section 803 of this law allocates the AI directed pollock fishery to the Aleut Corporation for economic development of Adak, Alaska. The statute permits the Aleut Corporation to authorize one or more agents for activities necessary for conducting the