

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

Endangered and Threatened Wildlife and
PlantsProposed Endangered or Threatened Status or
Critical Habitat for 10 Butterflies or MothsAGENCY: Fish and Wildlife Service,
Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine 10 U.S. butterflies or moths to be endangered species or threatened species and to identify critical habitat. This action is being taken because of their decreased population levels and anticipated adverse modification of their habitat. The proposed action, if finalized, would protect the populations of these butterflies and moths and their habitat. The butterflies and moths are known to occur in Arizona, California, Colorado, Illinois, Indiana, Iowa, Massachusetts, Michigan, Minnesota, New Hampshire, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Utah, and Wisconsin.

DATES: Comments from the public must be received by September 1, 1978. Comments from the Governors of the States involved with this action must be received by October 1, 1978.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On March 20, 1975, the Fish and Wildlife Service published a notice in the FEDERAL REGISTER (40 FR 12691) to the effect that a review of 42 butterflies was being conducted. The Dakota skipper butterfly (*Hesperia dacotae*), Great Basin silverspot butterfly (*Speyeria nokomis nokomis*), Oregon silverspot butterfly (*Speyeria zerene hippolyta*), and Karner blue butterfly (*Lycaeides melissa samuelis*) were included as part of the review. As a result of the notice of review, re-

sponses were received from the Iowa Department of Agriculture; Office of the Governor, State of Utah; Department of Entomology, Oregon State University; and New York State Department of Environmental Conservation. The comments and supportive documents have been reviewed and a summary is presented below. This information has been considered and is incorporated into the administrative record of this proposal.

The Iowa Department of Agriculture acknowledged that the Dakota skipper butterfly has always been uncommon in the State of Iowa. It has been reported from three Iowa counties, Woodstock, Powershiek, and Dickinson, with the most recent sighting in Dickinson County in 1974. That Department did not feel that there was enough information to support a classification of endangered or threatened.

The Governor of Utah's response on the Great Basin silverspot butterfly was that the State would protect the species by action of the Wildlife board and suggested that the species be included on appendix III of the Convention on International Trade. It was urged that no further action be taken until a complete survey and habitat inventory had been taken.

The Oregon State University's, Department of Entomology response on the Oregon silverspot recommended that efforts be initiated to preserve the needed habitat. Habitat preservation may be more feasible than species preservation.

The New York State Department of Environmental Conservation acknowledged that the Karner blue butterfly may warrant endangered status, as much of the essential habitat has been eliminated by suburban, commercial, and industrial development.

Petitions requesting addition to the U.S. list of endangered and threatened wildlife and plants were received by the U.S. Fish and Wildlife Service for two species, the Kern primrose sphinx moth and Karner blue butterfly. Dr. Paul Tuskes, University of California at Davis, submitted the petition for the Kern primrose sphinx moth. Mr. Don Rittner, Pine Bush Historic Preservation Project, submitted the petition for the Karner blue butterfly.

Section 4(a) of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) states:

"General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

- (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
- (2) Overutilization for commercial, sporting, scientific, or educational purposes;
- (3) Disease or predation;
- (4) The inadequacy of existing regulatory mechanisms; or

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

This authority has been delegated to the Director.

SUMMARY OF FACTORS AFFECTING THE
SPECIES

These findings are summarized herein under each of the five criteria of section 4(a) of the Act. These factors, and their application to these species of butterflies and moths, are as follows:

SAN FRANCISCO TREE LUPINE MOTH

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* This species was originally discovered in the San Francisco dune system in the 1880's. It had been thought extinct since 1960 but a few small colonies were rediscovered in 1977. It is currently found in three small colonies: (a) Southeast of Baker Beach, San Francisco County; (b) southern margin of Lake Merced, San Francisco County, and (c) base of Guadalupe Canyon. Since the settlement and urbanization of the San Francisco sand dune ecosystem, only small elements of the original community remain. Any development in these three areas could destroy the remaining population.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable for this species.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or man-made factors affecting its continued existence.* None.

KERN PRIMROSE SPHINX MOTH

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* This species had been thought extinct but was rediscovered in 1975. It was rediscovered in Walker Basin, Calif., an area between the Greenhorn and Piute Mountains. The habitat occupies an area of 4,000 square yards; three-fourths of the colony is located in a cultivated barley field on a cattle ranch. The present management of the barley field does not seem to be a threat to the species or its larval food plant, a primrose. If the management of the field is changed, the primrose, and thus this species, may be affected.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Since this species is so limited, overcollecting may be a threat.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or manmade factors affecting its continued existence.* None.

DAKOTA SKIPPER BUTTERFLY

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* This species originally occurred from southern Manitoba, Canada, south through North Dakota, South Dakota, Minnesota, Iowa, and Illinois. It now is apparently extirpated from Manitoba and Illinois, while its occurrence in the remainder of its range is reduced. This species is found in virgin prairie areas. Conversion of virgin prairie to alternate human-related land uses has drastically reduced the available habitat. Some of these human-related land uses include agriculture, urbanization, quarry operation, highway construction, weed control, and inundation from dam construction.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to this species.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or manmade factors affecting its continued existence.* None.

PAWNEE MONTANE SKIPPER BUTTERFLY

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* The only known population of this species occurs in a 12-mile section of canyon bottom of the South Platte River in Douglas and Jefferson Counties, Colo. The Two Forks Dam, one of the alternatives of the Foothills Project, would inundate all but the upper three miles of the species range, where only a few small colonies occur.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to this species.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or manmade factors affecting its continued existence.* None.

CALLIPPE SILVERSPOT BUTTERFLY

(1) *The present or threatened destruction, modification, or curtail-*

ment of its habitat or range. This species is found in the northern coastal scrub complex in California. It is known to have occurred only in San Francisco, San Bruno Mountains, Oakland Hills, and northeast Ballejo. It no longer exists in San Francisco because of urbanization and development pressure. Conversion of habitat to other uses has reduced the habitat available to this species. A large part of the San Bruno area is proposed for homesite and commercial development.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable for this species.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or manmade factors affecting its continued existence.* None.

GREAT BASIN SILVERSPOT BUTTERFLY

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* This species is restricted to isolated seeps and springs in the Colorado Plateau and Great Basin. This species needs an abundant and constant supply of water to form a marshy meadow where the larval food plant, violets, grow. This species is known to occur on a one-acre site in Unaweep Canyon, Mesa County, Colorado, and in Paradox Valley, Montrose County, Colorado. A few scattered colonies may extend into Utah. The main threat facing this species is the conflict between the violet's need for moist habitat and man's growing water needs. Farming and irrigation practices, construction, haying and grazing affect the continued existence of this species.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to this species.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or manmade factors affecting its continued existence.* None.

BLUE-BLACK SILVERSPOT BUTTERFLY

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* This species is restricted to isolated seeps and springs in the Colorado Plateau and Great Basin. They typically occur in spring-fed meadows or spring-fed hillside seeps where the larval food plant,

violets, grow. It occurs in the Rio Grande Valley in southern Conejos County, Colo., southward into New Mexico, where it may be extinct. It is extinct from its type locality-Sapello Canyon, San Miguel County, N. Mex. A colony has been found near Tsaille Creek, eight miles north of Wheatfields Lake, Ariz. Man's growing need for water is reducing the habitat available to this species. Other man-related activities that are affecting this species are farming and irrigation, construction of roads, haying, and grazing.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to this species.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or manmade factors affecting its continued existence.* None.

OREGON SILVERSPOT BUTTERFLY

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* This species is found only in the salt spray meadows along the extreme edge of the Pacific Coast. It has been reported from one site in Washington and seven sites in Oregon. It is now apparently extinct from four of these sites, weak colonies exist at two sites, and healthy colonies exist at the remaining two sites. The currently healthy colonies exist at Tenmile Creek, Lane County, Oregon, and Rock Creek to Big Creek, Lane County, Oregon. The Tenmile Creek site is privately owned and is apparently destined to become a site for condominiums. Real estate development is rapidly decreasing the available salt spray meadows.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to this species.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or manmade factors affecting its continued existence.* None.

KARNER BLUE BUTTERFLY

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* This species has local, scattered populations occurring in an east-west belt running from Minnesota and Wisconsin through Michigan, Indiana, Illinois,

Ohio, Pennsylvania, Ontario, and New York to New Hampshire and Massachusetts. The records from Massachusetts, New Hampshire, Ohio, northern Illinois, and Ontario are old records. This species has been reported in four Pennsylvania counties, three north Indiana locations, and a few localities in Michigan since 1960. A small isolated colony (100x100 ft. area) was reported near Hessville, Ind., just outside Chicago. Several were found at the Indiana Dunes State Park. A small colony was reported in Anoka County, Minn., in 1975. The largest known population now occurs in the Albany Pine Bush region, a pine barrens community between Albany and Schenectady. A population is present on the Tpmawamda Indian Reservation, Genesee County, N.Y. Several populations have been found in the Hudson Valley Sand Belt, Warren and Saratoga Counties. Throughout its range, it is very local. It is closely associated with fire climax vegetation known as the "pine barrens." This is the type of habitat in which wild blue lupine, its larval food plant, exists. Extinction of populations has occurred in the vicinity of large urban centers such as Chicago and New York City. Urbanization, with its resultant destruction of habitat, is seriously affecting the continued existence of this species. Land management practices which suppress natural fire change the character of the habitat, making it unsuitable for wild blue lupine.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable for this species.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* This species is currently protected by the State of New York.

(5) *Other natural or manmade factors affecting its continued existence.* None.

PALOS VERDES BLUE BUTTERFLY

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* This species is exclusively peninsular, being restricted to the cool, fog-shrouded side of Palos Verdes Hills. The only presently known population occupies several acres near the intersection of Los Verdes Drive and Hawthorne Boulevard. Accelerated residential and commercial development on the Palos Verdes Peninsula is threatening the continued existence of this species.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to this species.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or manmade factors affecting its continued existence.* None.

CRITICAL HABITAT

Section 7 of the act, entitled "Inter-agency Cooperation," states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

A definition of the term "critical habitat" was published jointly by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of January 4, 1978 (43 FR 870-876 to be codified at 50 CFR Part 402) and is reprinted below.

"Critical habitat" means any air, land, or water area (exclusive of those existing man-made structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of critical habitat include, but are not limited to: Physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas for reasonable population expansion.

There has been widespread and erroneous belief that a critical habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a critical habitat designation effects Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to section 7 of the Act are applicable in a certain area.

A critical habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above definition, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available bio-

logical data. It would not be in accordance with the law to involve other motives; for example, to enlarge a critical habitat delineation so as to cover additional habitat under section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of critical habitat delineations. Such questions should and can more conveniently be dealt with after critical habitat has been designated. Provisions for interagency cooperation were published on January 4, 1978, in the FEDERAL REGISTER (43 FR 870-876 to be codified at 50 CFR 402) to assist Federal agencies in complying with their responsibilities under section 7 of the Endangered Species Act.

As specified in the regulations for interagency cooperation, the Director will consider the physiological, behavioral, ecological, and evolutionary requirements for the survival and recovery of listed species in determining what areas or parts of habitats are critical. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing of offspring; and generally,

(5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

These requirements and their application to the species of moths and butterflies for which critical habitat is being proposed within this rulemaking are as follows.

SAN FRANCISCO TREE LUPINE MOTH

This species was originally described from the San Francisco sand dune system. The larval host plant of this species, *Lupine arboreus*, occurs on sandy soils along the coastline from Del Norte County south to Ventura County. In the original San Francisco sand dune ecosystem, the host plant probably occurred in a fairly broad band between the ocean dunes and the western base of the hills extending from the Golden Gate Bridge southward to Pacifica. Since the urbanization of the San Francisco sand dune ecosystem, only small elements of the original community now remain. The areas proposed as critical habitat represent two of the last three known populations of this species. These sites provide all the requirements needed for the continued existence of this species.

DAKOTA SKIPPER BUTTERFLY

This species originally occurred in virgin tall-grass prairies from southern Manitoba, south through North Dakota, South Dakota, Minnesota, Iowa, and Illinois. It is now extirpated from Manitoba and Illinois and reduced in the remainder of its range. They feed on particular species of perennial bunchgrasses. Older larvae may feed away from the shelter; often a trail of silk leads from the shelter, which may be partly subterranean, to that part of the grass tuft most recently fed upon. Pupation usually takes place in a loose cocoon constructed amid debris, often some distance from the larval shelter. The sites proposed as critical habitat are representative of the type of habitat in which this species occurred. This species has consistently been found at these locations in the recent past.

PAWNEE MONTANE SKIPPER BUTTERFLY

The area proposed as critical habitat for this species contains the only known population of this species of butterfly. The life history of this species is not yet known but all *Hesperia*, as far as is known, feed upon particular species of perennial bunchgrasses. Older larvae may feed away from the shelter which may be partly subterranean. Pupation occurs amid debris often some distance from the larval shelter. The only known population of this butterfly occurs in a 12-mile section of canyon bottom of the South Platte River in Douglas and Jefferson Counties, Colo. This area provides all the requirements needed for the existence of this species.

CALLIPPE SILVERSPOT BUTTERFLY

This species is restricted to the San Francisco peninsula. Encroachment of the city of San Francisco has extirpated this species from its type locality. The areas proposed as critical habitat represent two of the three currently known locations for this species. The larval food plant of this species is the violet, *Viola pedunculata*. The eggs are laid among the debris and dried stems of dead perennial violets (and sometimes pansy) leaves. The newly hatched larvae hatch and immediately hibernate. They revive in late winter when the rains have moistened the dry hills and the violets put forth new growth. Larval and pupal development is rapid. Adults emerge in early summer. The flight of all *Speyeria* is strong and rapid. Males and females may not fly together and may keep to different areas. The areas proposed as critical habitat for this species are representative of its habitat and provide the requirements for its continued existence.

GREAT BASIN SILVERSIDE BUTTERFLY

This species is restricted to seeps and spring areas in the Colorado Pla-

teau and Great Basin. An abundant and constant source of water forms a marshy meadow containing sedge grass, scrub willows, thistles, burdock, and violets, the larval food source. Sufficient water to support an abundant supply of violets is essential for this species. Burdock and thistles, the adult nectar source, must also be present. Eggs are laid among the debris and dried stems of dead perennial violet leaves. The newly hatched larvae eat out of the eggshell and hibernate immediately. They break diapause in the later winter or early summer when the rains renew the violet's growth. Larval and pupal development is rapid. Adults emerge in early summer. The flight of all *Speyeria* is strong and rapid. Adults visit burdock and thistle for a supply of nectar. Males and females do not necessarily fly together and may keep to different areas. The areas proposed as critical habitat for this species are representative of the type of habitat occupied by this species.

BLUE-BLACK SILVERSPOT BUTTERFLY

This species is restricted to isolated seep and spring areas. It occurs in the Rio Grande Valley in southern Colorado southward into New Mexico, where it may now be extinct. An abundant and constant supply of water is essential to support an abundant supply of the larval food source, a violet. Eggs are laid among the debris and dried stems of dead perennial violet leaves. The newly hatched larvae eat out the interior of the eggshell and immediately hibernate. They break diapause in late winter or early spring when the rains renew the violet's growth. Larval and pupal development is rapid. Adults emerge in early summer. The flight of this species is strong and rapid. Adults visit burdock and thistle for a source of nectar. Males and females may not fly together but may occupy different areas. The area near Tsaille Creek, Ariz., proposed as critical habitat for this species is typical of the habitat occupied by this butterfly and contains all the requirements needed for its continued existence.

OREGON SILVERSPOT BUTTERFLY

This species occurs only on the Pacific coast from central Oregon to extreme southwestern Washington. It favors open, sunny glades and is restricted to the salt spray meadows along the edge of the coast. These meadows contain a variety of native, salt-tolerant grasses. Eggs are laid on or as much as 1 foot downwind of the larval food plant, *Viola adunca*. Larvae hatch and overwinter without feeding. Diapause occurs on vegetation near the soil surface. Larvae break diapause and begin feeding in spring. They pupate in meadow litter. Adults of both sexes fly to various wild-

flowers, particularly *Aster chilensis*, to obtain nectar. Adults often shelter in Sitka spruce forest just inland from the meadows during frequent windy weather. Mating may take place among the Sitka spruce. The salt spray meadow habitat is rapidly decreasing. Only two natural salt spray meadows of appreciable size remain. These are at the mouth of Tenmile Creek, Lane County, Oreg., and at Rock Creek and Big Creek, Lane County, Oreg. The proposed critical habitat areas include these two salt spray meadows, the two strongest remaining populations of this species. These areas are representative of the habitat required for this species and contain all the needed life requirements.

KARNER BLUE BUTTERFLY

This species is very local and scattered throughout its range. The area proposed as critical habitat for this species represents the best known and most widely studied population of this species. This species is found in the fire climax vegetation known as the "pine barrens." This assemblage is dominated by pitch pine and scrub oak. These species have an open enough canopy to allow sufficient light penetration to support wild blue lupine, *Lupinus perennis*, the larval food source. Two generations of Karner blue butterflies are produced yearly. The cycle begins in late May and early June when first brood butterflies appear. Eggs are deposited on lupine leaves. Larvae appear and begin to eat the leaves. The larvae have a characteristic habit of eating all but the upper epidermis, leaving translucent windows in the leaves. The naked chrysalis hangs in a sheltered place on the stem or twig. Adults emerge within 10 days. This second generation appears in late July and early August. The second generation females deposit eggs on dried seed pods of the lupine. These eggs diapause through the winter, producing caterpillars the following April when new lupine shoots are appearing. These caterpillars grow and pupate in time to produce adults in late May to early June. The area proposed as critical habitat for this species represents the type locality of the Karner blue and is well representative of the pine barrens assemblage inhabited by this species and fulfills all the requirements for the continued existence of the species.

The areas delineated do not necessarily include the entire critical habitat of these species, and modifications of their critical habitat designations may be proposed in the future. In accordance with section 7 of the act, all Federal departments and agencies are required to insure that actions authorized, funded, or carried out by them would not result in the destruction or

adverse modification of the critical habitats of these species.

Also, in accordance with section 7 of the act, Federal agencies would have to consult with the Secretary of the Interior with respect to any action which is considered likely to affect critical habitat. Consultation pursuant to section 7 would be carried out using the procedures contained in the "Interagency Cooperation Regulations" which were published in the FEDERAL REGISTER on January 4, 1978 (43 FR 870-876 to be codified at 50 CFR 402).

EFFECT OF THE RULEMAKING

In addition to the effects discussed above, the effects of this rulemaking would include, but would not necessarily be limited to, those mentioned below.

The act and implementing regulations published in 50 CFR Part 17 already set forth a series of general prohibitions and exceptions which apply to all endangered species. All of those prohibitions and exceptions also apply to any threatened species unless a special rule pertaining to that threatened species has been published and indicates otherwise. The regulations referred to above, which pertain to endangered and threatened species, are found at section 17.21 and 17.31 of title 50, and are summarized below.

These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import, or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell, or offer for sale these species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship the species if they had been

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

The act and 50 CFR Part 17 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened species under certain circumstances. Such permits involving endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to section 4(b) of the act, the Director will notify the Governors of Arizona, California, Colorado, Illinois, Indiana, Iowa, Massachusetts, Michigan, Minnesota, New Hampshire, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Utah, and Wisconsin, with respect to this proposal and request their comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspects of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to 10 butterflies or moths;

(2) The location of and reasons why any habitat of these 10 butterflies and moths should or should not be determined to be critical habitat as provided for by section 7 of the act;

(3) Additional information concerning the range and distribution of the 10 butterflies and moths.

Final promulgation of the regulations on the 10 butterflies and moths will take into consideration the comments and any additional information received by the Director, and such communications may cause him to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C., and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 103(2)(C) of the National Environmental Policy Act of 1969.

The primary authors of this proposed rulemaking are Dr. Paul A. Opler and Mrs. Lorraine K. Williams, Office of Endangered Species, 202-343-7814.

REGULATIONS PROMULGATION

Accordingly, it is hereby proposed to amend part 17, subchapter B of Chapter I, title 50 of the Code of Federal Regulations, as set forth below.

1. It is proposed to amend section 17.11 by adding, in alphabetical order under "Insecta," the following to the list of animals:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species			Range			Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion endangered				
Insecta:								
Butterfly, blue-black silverspot	<i>Speyeria nokomis nigrocaerulea</i>	NA	U.S.A. (Arizona, Colorado, New Mexico)	Entire	T		NA	
Butterfly, Callippe silverspot	<i>Speyeria callippe callippe</i>	NA	U.S.A. (California)	.....do	E		NA
Butterfly, Dakota skipper	<i>Hesperia dacotae</i>	NA	U.S.A. (Illinois, Iowa, Minnesota, North Dakota, South Dakota)	.....do	T		NA
Butterfly, Great Basin silverspot	<i>Speyeria nokomis nokomis</i>	NA	U.S.A. (Colorado, Utah)	.....do	T		NA
Butterfly, karner blue	<i>Lyciaides melissa samuelis</i>	NA	U.S.A. (Illinois, Indiana, Massachusetts, Michigan, Minnesota, New Hampshire, New York, Ohio, Pennsylvania, Wisconsin)	.....do	T		NA
Butterfly, Oregon silverspot	<i>Speyeria zerene hippolyta</i>	NA	U.S.A. (Oregon)	.....do	T		NA
Butterfly, Palos Verdes blue	<i>Glaucopsyche lydamus palosverdensis</i> .	NA	U.S.A. (California)	.....do	E		NA
Butterfly, pawnee montane skipper.	<i>Hesperia pawnee montana</i>	NA	U.S.A. (Colorado)	.....do	E		NA
Moth, Kern primrose sphinx	<i>Euproserpinus euterpe</i>	NA	U.S.A. (California)	.....do	T		NA
Moth, San Francisco tree lupine ...	<i>Grapholitha edwardsiana</i>	NA	U.S.A. (California)	.....do	T		NA

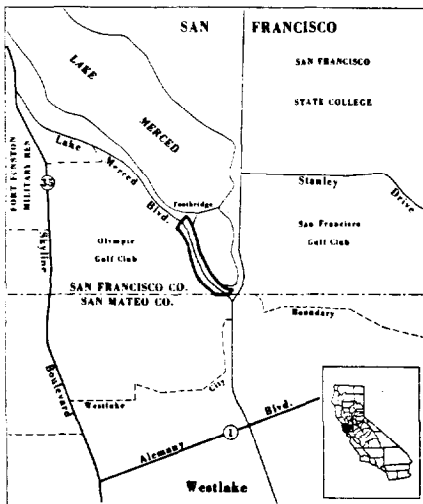
PROPOSED RULES

Also, the Service proposes to amend § 17.95 by adding Critical Habitats of one moth and seven butterflies in a new subsection (i) of § 17.95 as follows:
 § 17.95 Critical habitat—fish and wildlife.

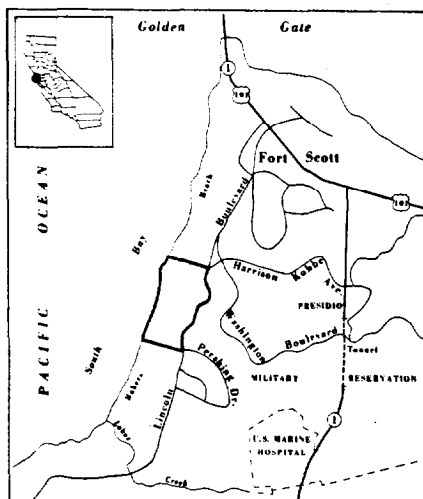
(i) *Insecta.*

SAN FRANCISCO TREE LUPINE MOTH
 (*Grapholitha edwardsiana*)

California. (1) *Lake Merced Zone, San Francisco County.* A narrow strip of land 75 yards on either side of Lake Merced Boulevard extending from the footbridge at the south end of Lake Merced southward to the San Francisco-San Mateo County line.

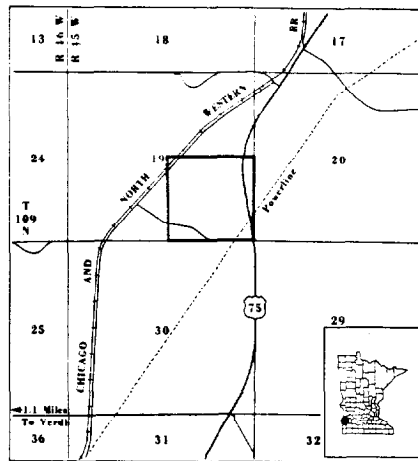


(2) *Baker Beach Zone, San Francisco County.* An area at Baker Beach bordered by the mean high water line of the Pacific Ocean on the west, Lincoln Boulevard on the east, a line extended westerly from the northernmost part of Pershing Drive on the south and a line extended westerly from the intersection of Lincoln Boulevard and Harrison Kobbe Avenue on the north.

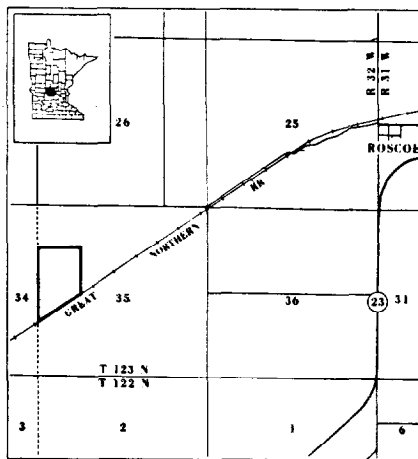


DAKOTA SKIPPER BUTTERFLY
 (*Hesperia dacotae*)

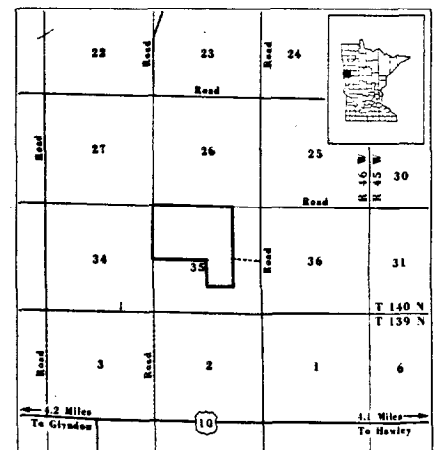
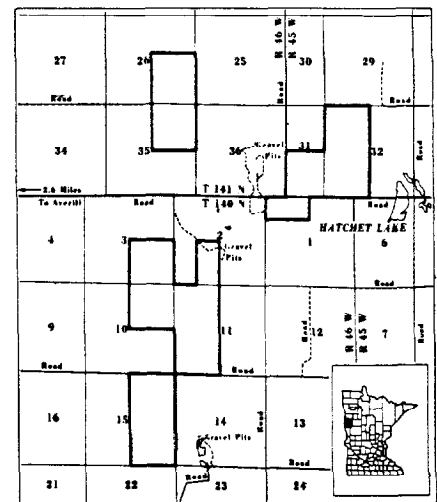
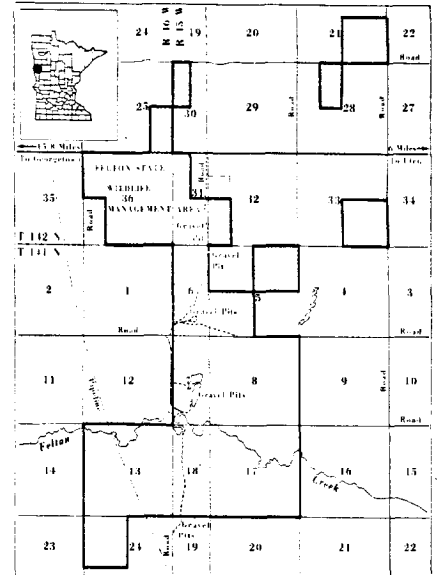
Minnesota. (1) *Lincoln County Zone, T. 109 N., R. 45 W., S¼ Sec. 19.*



(2) *Stearns County Zone, T. 123 N., R. 32 W., SW¼ of NW¼ of sec. 35 and that part of NW¼ of SW¼ of sec. 35 north of railroad tracks.*



(3) *Clay County Zone, R. 45 W., T. 141 N., NE¼ and SW¼ sec. 5, sec. 6, sec. 7, sec. 8, sec. 17, sec. 18, S¼ sec. 31, W½ sec. 32; R. 45 W., T. 142 N., SE¼ sec. 21, E½ of NW¼ sec. 28, W½ of SW¼ sec. 32, SE¼ sec. 33, NW¼ sec. 30, NW¼ and S¼ sec. 31; R. 46 W., T. 140 N., N½ of NW¼ sec. 1, E½ of SW¼ of sec. 2, SE¼ sec. 3, NE¼ sec. 10, W½ sec. 11, E½ sec. 15, NW¼ and W½ of NE¼ and NW¼ of SE¼ sec. 35; R. 46 W., T. 141 N., sec. 13, NW¼ sec. 24, SE¼ sec. 26, NE¼ sec. 35; R. 46 W., T. 142 N., E½ of SW¼ sec. 25, N½ and SE¼ and E½ of SW¼ of sec. 36.*

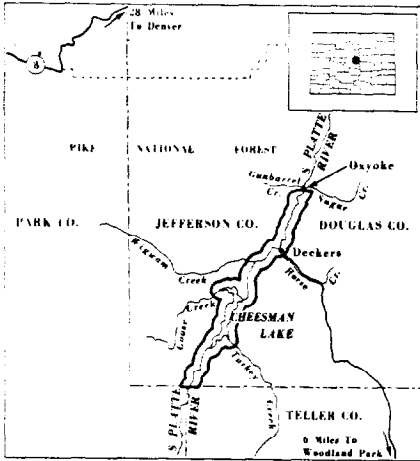


PROPOSED RULES

PAWNEE MONTANE SKIPPER BUTTERFLY

(*Hesperia pawnee montana*)

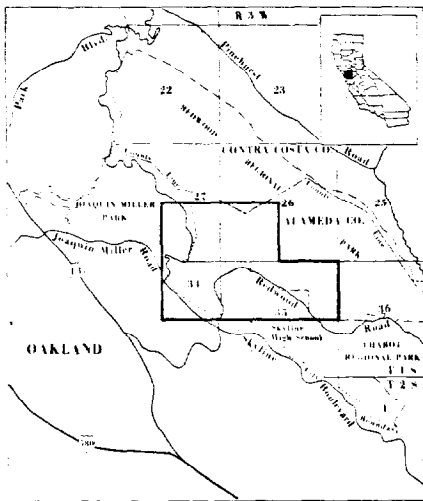
Colorado. Douglas and Jefferson Counties. An area of land 500 meters on either side of the South Platte River, Douglas and Jefferson Counties, beginning at Oxyoke and extending upstream to the Teller County line.



CALLIPPEE SILVERSPOT BUTTERFLY

(*Speyeria callippe callippe*)

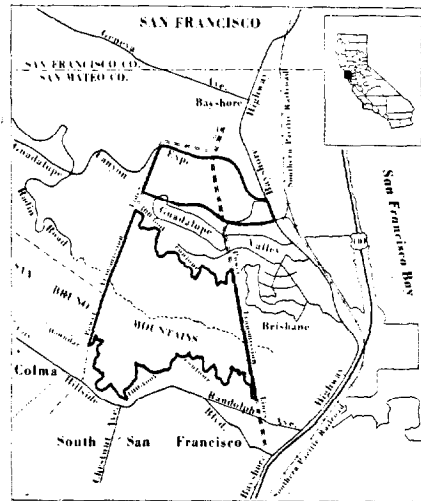
California. (1) **Oakland Zone.** San Francisco County. T. 1 S., R. 3 W., SE¼ sec. 27, SW¼ sec. 26, NE¼ sec. 34, N¼ sec. 35.



(2) **Guadalupe Valley Zone.** San Mateo County. An area bounded by a line from the intersection of Guadalupe Expressway and Bayshore Highway, southeasterly along Bayshore Highway to the intersection with railroad, then westerly along railroad and extending to powerline, then northeasterly

along powerline to Guadalupe Expressway, then easterly along Guadalupe Expressway to Bayshore Highway.

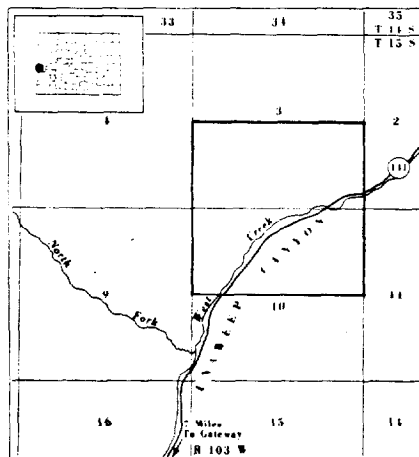
(3) **San Bruno Mountain Zone.** San Mateo County. An area bounded by a line southeasterly along a three-pole powerline to the 400-ft. contour near Randolph Avenue, northwesterly along the 400-ft. contour to the two-pole powerline, northeasterly along powerline to the 300-ft. contour near Guadalupe Valley, southeasterly along 300-ft. contour to the powerline.



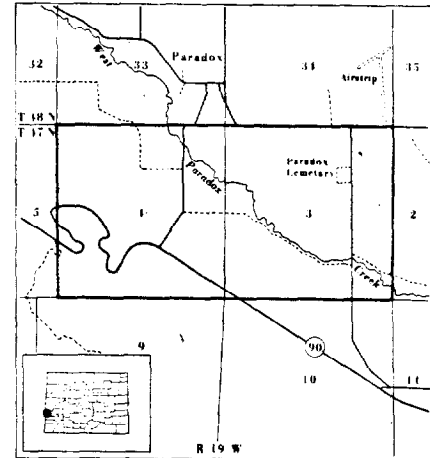
GREAT BASIN SILVERSPOT BUTTERFLY

(*Speyeria nokomis nokomis*)

Colorado. (1) **Paradox Zone.** Montrose County. T. 15 S., R. 103 W., S½ sec. 3, N½ sec. 10.



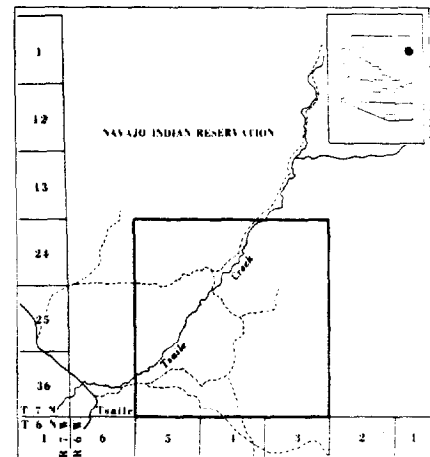
(2) **Unaweep Canyon Zone.** Meas County. T. 47 N., R. 19 W., secs. 3 and 4.



BLUE-BLACK SILVERSPOT BUTTERFLY

(*Speyeria nokomis nigrocaerulea*)

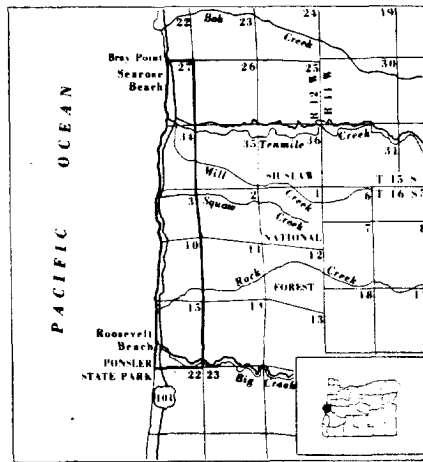
Arizona. Apache County. An area bounded on the south by a line along the northern limit of T. 6 N., R. 6 W., secs. 3, 4, and 5; on the east by a line extended northward for 3 miles from the common boundary of T. 6 N., R. 6 W., secs. 2 and 3; on the west by a line extended northward for 3 miles from the common boundary of T. 6 N., R. 6 W., secs. 5 and 6; and on the north by a line extended eastward from the common boundary of T. 7 N., R. 7 W., secs. 13 and 24.



OREGON SILVERSPOT BUTTERFLY

(*Speyeria zerene hippolyta*)

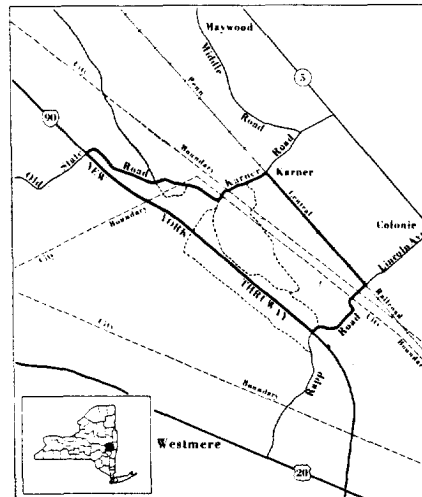
Oregon. Lane County. T. 15 S., R. 12 W., secs. 27 and 34, T. 16 S., R. 12 W., secs. 3, 10, and 15.



KARNER BLUE BUTTERFLY

(Lycaeides melissa samuelis)

New York. Albany County. An area bounded by the Penn Central Railroad tracks on the northeast, Rapp Road on the southeast, the New York State Thruway on the southwest, and Old State Road and Karner Road on the northwest.



NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 16, 1978.

LYNN A. GREENWALT,
 Director,
 Fish and Wildlife Service.

[FR Doc. 78-18305 Filed 6-30-78; 8:45 am]