

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 70**

[WY-001b; FRL-6234-2]

**Clean Air Act Proposed Full Approval of Operating Permit Program; Approval of Expansion of State Program Under Section 112(l); State of Wyoming**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** The EPA is taking direct final action to approve the operating permit program submitted by the State of Wyoming. Wyoming's program was submitted for the purpose of meeting the Federal Clean Air Act directive that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the states' jurisdiction. In the "Rules and Regulations" section of this **Federal Register**, the EPA is promulgating full approval of the Wyoming program as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. In addition, EPA is also approving the expansion of Wyoming's program for receiving delegation of section 112 standards to include non-part 70 sources. If no adverse comments are received in response to this rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing on or before March 24, 1999.

**ADDRESSES:** Written comments may be mailed to: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202. Copies of the documents relevant to this action are available for public inspection during normal business at the above address. Copies of the State documents relevant to this action are available for public inspection at the Wyoming Department of Environmental Quality, Air Quality Division, 122 25th Street, Cheyenne, WY 82002.

**FOR FURTHER INFORMATION CONTACT:** Patricia Reisbeck, EPA, Region VIII, (303) 312-6435.

**SUPPLEMENTARY INFORMATION:** See the information provided in the Direct Final rule of the same title which is located in the Rules section of this **Federal Register**.

**Authority:** 42 U.S.C. 7401, *et seq.*

Dated: January 28, 1999.

**William P. Yellowtail,**

*Regional Administrator, Region 8.*

[FR Doc. 99-4142 Filed 2-19-99; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17**

RIN 1018-AE40

**Endangered and Threatened Wildlife and Plants; Proposed Rule To Remove the Tinian Monarch From the Federal List of Endangered and Threatened Wildlife**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule and notice of petition finding.

**SUMMARY:** Under the authority of the Endangered Species Act of 1973 (Act), as amended, the U. S. Fish and Wildlife Service (Service) proposes to remove the Tinian monarch (*Monarcha takatsukasae*) from the Federal List of Endangered and Threatened Wildlife. The Tinian monarch is a bird endemic to the island of Tinian in the Mariana archipelago in the western Pacific Ocean. It was listed as endangered on June 2, 1970, because its populations were thought to be critically low due to the destruction of native forests by pre-World War II (WW II) agricultural practices and military activities during WW II. Forest bird surveys conducted by the Service in 1982 resulted in a population estimate of 40,000 monarchs. Based on the results of this survey, we downlisted the monarch to threatened status on April 6, 1987. A study of monarch breeding biology in 1994 and 1995 suggested a rough population estimate of 52,904 birds. In 1996, a replication of the 1982 surveys yielded a population estimate of 55,721 birds, a significant increase from 1982 levels. The 1996 survey also found significantly denser forest habitat from 1982 levels, which may reflect an increase in monarch habitat quality. This proposed rule acknowledges the increase in population numbers and the

likely improvement in habitat quality. If made final this rule would remove Federal protection provided by the Act for this species. Removal of Federal protection for the Tinian monarch does not nullify protections provided by the government of the Commonwealth of the Northern Mariana Islands (CNMI) to the monarch as a protected wildlife species or its designation by CNMI as a threatened or endangered species. This proposal also constitutes a finding on a petition to delist this species.

**DATES:** We must receive comments from all interested parties by April 23, 1999. We must receive public hearing requests by April 8, 1999.

**ADDRESSES:** Send comments and materials concerning this proposal to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Ecoregion, 300 Ala Moana Boulevard, Room 3-122, Box 50088, Honolulu, Hawaii 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Michael R. Lusk, Staff Biologist, Pacific Islands Ecoregion, (see **ADDRESSES** section), telephone 808/541-3441; facsimile 808/541-3470.

**SUPPLEMENTARY INFORMATION:****Background**

The Tinian monarch, locally known as Chuchurican Tinian, was first recognized as a species in 1931, when it was described by Y. Yamashina (Takatsukasa and Yamashina 1931). It is a small (15 centimeters (6 inches)) flycatcher (Family Monarchidae) with light rufous underparts, olive-brown upper parts, dark brown wings and tail, and white rump and undertail coverts (Baker 1951). The monarch is endemic to the island of Tinian, CNMI. However, a recent examination of museum specimens by Peters (1996) suggests that a now extirpated population may have once existed on the island of Saipan, CNMI. The monarch inhabits a variety of forest types on Tinian, including native limestone forest (dominated by such species as *Ficus* spp., *Elaeocarpus joga*, *Mammea odorata*, *Gumia mariannae*, *Cynometra ramiflora*, *Aglaia mariannensis*, *Premna obtusifolia*, *Pisonia grandis*, *Ochrosia mariannensis*, *Neisosperma oppositifolia*, *Intsia bijuga*, *Melanolepis multiglandulosa*, *Eugenia* spp., *Pandanus* spp., *Artocarpus* spp., and *Hernandia* spp.), secondary vegetation (consisting primarily of *Acacia confusa*, *Albizia lebeck*, *Casuarina equisetifolia*, *Cocos nucifera*, and *Delonix regia* with

some native species mixed in), and nearly pure stands of introduced *Leucaena leucocephala* (tangantangan) (Engbring *et al.* 1986, USFWS 1996).

Heavy disturbance of the island's native forests began in the 18th century when the Spaniards used Tinian as a supply island for Guam and maintained large herds of cattle and other ungulates on the island (Fosberg 1960). This trend continued, and in 1926 a Japanese company leased the entire island and cleared additional forested lands for sugarcane production (Belt Collins 1994). During WW II, most remaining native vegetation was destroyed or denuded by either military campaigns or military construction, though some suitable bird habitat still survived (Baker 1946). After the war, the U.S. military may have seeded the CNMI with tangantangan (USFWS 1995, 1996). Currently, the vegetation on Tinian is highly disturbed, with the single most predominant habitat type on Tinian being tangantangan thickets (Fosberg 1960, Engbring *et al.* 1986, Falanruw *et al.* 1989). According to Engbring *et al.* (1986), 38 percent of Tinian is dominated by tangantangan, while Falanruw *et al.* (1989) estimated 54 percent of the island to be covered in secondary vegetation, which in her definition included tangantangan thickets. Only 5 percent to 7 percent of the island is estimated to remain in native forest (Engbring *et al.* 1986, Falanruw *et al.* 1989), which is restricted to steep limestone escarpments (Falanruw *et al.* 1989).

In 1995, the annual census of Tinian recorded a human population of 2,628 residents. In 1986, Engbring *et al.* (1986) recorded the population as being less than 1,000. The majority of residents live in the island's only town of San Jose at the southwestern edge of the island. The northern two-thirds of the island (71 percent of the total island) is leased to the U.S. military for defense purposes (Belt Collins 1994). The remaining 29 percent of the island is divided between leased public property (67 percent), privately owned property (26 percent), and other public property (7 percent) (Deborah Clark, Marianas Public Land Corporation, pers. comm. 1998). Approximately 10 percent of the total island is devoted to agriculture, while another 30 to 50 percent is used for cattle grazing (Engbring *et al.* 1986, Belt Collins 1994).

We originally listed the Tinian monarch as endangered in 1970 (35 FR 8491) under the authority of the Endangered Species Conservation Act of 1969 (16 U.S.C. 668cc). We continued the endangered status of the monarch under the Endangered Species Act of

1973 (16 U.S.C. 1531–1544). We based our decision to list the monarch as endangered on an estimate by Gleize (1945) of 40–50 monarchs on Tinian after WW II (April 6, 1987, 52 FR 10890), although it is not clear if his report was an estimate of the number of birds he saw, or an estimate of the entire population. Pratt *et al.* (1979) suggested that this estimate represented only the number of birds Gleize observed in a specific, small part of the island. About the same time as Gleize, Downs (1946) reported that monarchs were restricted in distribution to distinct locations on the island, while Marshall (1949) considered the monarch to be abundant. In the late 1970s, Pratt *et al.* (1979) estimated monarchs to number in the tens of thousands and to prefer tangantangan thickets. In 1982, the Service conducted forest bird surveys of the southern islands in the Mariana archipelago. We found the monarch to be the second most abundant species on Tinian with a population estimate of 40,000, distributed throughout the island and across all forested habitat types (Engbring *et al.* 1986). Engbring *et al.* (1986) recommended the reassessment of the monarch's endangered status. This reassessment led to the reclassification of the Tinian monarch from endangered to threatened in 1987 (52 FR 10890).

Between 1994 and 1995, we conducted a life history study of the Tinian monarch and reported a population estimate of 52,904 monarchs. During this study we found that the native limestone forest may be preferred by monarchs over secondary and tangantangan forest types, based on the following—(1) monarch home range sizes were found to be four to five times smaller in native limestone forest than in secondary and tangantangan forests (home range sizes in limestone forest averaged 1,221 square meters (1,334 square yards), while home range sizes in secondary and tangantangan forest types averaged 5,196 and 6,385 square meters (5,679 and 6,979 square yards), respectively, indicating that native forest provides higher quality monarch habitat because smaller areas are able to support a monarch home range; (2) 64 percent of all monarch nests were constructed in native tree species; (3) of 114 monarch nests, we found 62 in native forest while only we found 52 in the secondary and tangantangan forest types combined, indicating that monarchs have higher nest densities in native forest; (4) nesting success in native limestone forest was greater than in secondary and tangantangan forest types (of 19 nests that produced

nestlings, 13 were in native limestone forest and only 6 were in secondary forest and tangantangan forests combined); and (5) based on resightings of banded birds, we found monarch densities to be four to five times higher in limestone forest than in either secondary or tangantangan forest (30.7 birds/hectare (ha), 7.7 birds/ha, and 6.0 birds/ha, respectively) (USFWS 1996). Nevertheless, we found that the monarch was successfully foraging and breeding in secondary and tangantangan forests throughout the island and recommended that the threatened status of the monarch be reassessed (USFWS 1996).

Subsequently, we conducted a survey of the avifauna of Tinian in 1996 following the methodology of the 1982 surveys for comparative purposes. The 1996 survey estimated the monarch population at 55,721 birds, significantly higher than the 1982 estimates (Lusk *et al.* 1997). The 1996 survey also found that across all forest types, vegetation density had significantly increased from 1982 levels. This may be related to a marked decrease in grazing pressure in recent years (Lusk *et al.* 1997). We hypothesize that the increase in the Tinian monarch population is related to the increase in density of both native and introduced forest habitat types which may represent an increase in monarch habitat quality (Lusk *et al.* 1997).

#### Previous Federal Action

We classified the Tinian monarch as endangered on June 2, 1970 (35 FR 8495), and we included it as an endangered species under the Endangered Species Act (Act) of 1973, which superseded earlier endangered species legislation. The primary reasons for listing the monarch were presumed low numbers (April 6, 1987; 52 FR 10890) and the removal or destruction of forest by agriculture practices and/or military activities during WW II (November 1, 1985; 50 FR 45632). However, this listing was not based on actual surveys of the bird's status. Subsequently, in 1982, we conducted a survey and found an increase both in Tinian monarch numbers and suitable forest habitat (Engbring *et al.* 1986). On November 1, 1985 (50 FR 45632), the Service proposed that the monarch be removed from protection of the Act, as amended. Based on comments received, we chose to reclassify the monarch to threatened status, thus continuing protection of the species under the Act (April 6, 1987; 52 FR 10890). We did not designate critical habitat for the Tinian monarch. This delisting proposal serves as a positive finding on a petition

submitted by the National Wilderness Institute dated February 3, 1997, requesting delisting of the Tinian monarch.

### Listing Priority Guidance

The Service has implemented a series of listing priority guidance policies since 1996 to clarify the order in which we will process rulemaking actions. The need for this guidance arose following major disruptions in our listing budget beginning in Fiscal Year 1995 and a moratorium on certain listing actions during parts of Fiscal Years 1995 and 1996. The intent of the guidance is to focus our efforts on listing actions that will provide the greatest conservation benefits to imperiled species in the most expeditious and biologically sound manner. Due to a large backlog of species in need of the Act's protection, the preparation of delisting rules was a low priority following the lifting of the moratorium in Fiscal Year 1996 and in Fiscal Year 1997.

Processing of this proposed delisting conforms with the Listing Priority Guidance for Fiscal Years 1998 and 1999 published on May 8, 1998 (63 FR 25502). This guidance gives highest priority (Tier 1) to processing emergency rules to add species to the Lists of Endangered and Threatened Wildlife and Plants; second priority (Tier 2) to processing final determinations on proposals to add species to the lists, processing new proposals to add species to the Lists, processing administrative findings on petitions (to add species to the lists, delist species, or reclassify listed species), and processing a limited number of proposed or final rules to delist or reclassify species; and third priority (Tier 3) to processing proposed or final rules designating critical habitat. Processing of this delisting proposal is a Tier 2 action.

### Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for listing, reclassifying, or removing species from the Federal lists. We may determine a species as endangered or threatened due to one or more of the five factors described in section 4(a)(1). The data we use to support a removal must be the best scientific and commercial data available, and it must substantiate that the species is neither endangered nor threatened for one or more of the following reasons: extinction, recovery of the species, or an error in the original

data that supported the classification. The factors considered and their application to the Tinian monarch are discussed below.

#### *A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range*

Surveys (1982, 1994–1995, 1996) conducted since the classification of the Tinian monarch as endangered in 1970 have shown an increase in the known abundance and distribution of this species. At the time of listing, we thought its numbers were critically low due to the destruction of native forests by pre-WW II agricultural practices and war-time military activities (50 FR 45632). However, no surveys for this species were conducted in the 20-plus years before the 1970 listing. The monarch inhabits approximately 62 percent of Tinian, of which approximately 93 percent is secondary and tangantangan vegetation (Engbring *et al.* 1986, USFWS 1996, Lusk *et al.* 1997). Although native limestone forest provides the preferred habitat of the monarch, secondary vegetation and tangantangan thickets also provide important breeding and foraging habitat (Engbring *et al.* 1986, USFWS 1996, Lusk *et al.* 1997).

Tinian has a total surface area of approximately 10,172 ha (25,135 acres) (Falanruw *et al.* 1989). Currently, the U.S. Navy leases the northern two-thirds of the island (71 percent of the total island) for defense purposes (Belt Collins 1994). This leased land encompasses roughly 75 percent of the total remaining monarch habitat on the island, but only about 30 percent of the total remaining native limestone forest. Therefore, we grossly estimate that about 70 percent of the monarch population (39,000 birds) now occurs on Navy-leased lands (Annie Marshall, U.S. Fish and Wildlife Service, pers. comm. 1998). The Navy entered into a 50-year lease agreement with the CNMI for these Tinian lands in 1983, with an option to renew for another 50 years (CNMI and USA 1994; Tim Sutterfield, Navy Fish and Wildlife Biologist, pers. comm. 1998). None of the current Tinian-leased lands are expected to be leased back to Tinian for the duration of the remaining 50-year contract, which expires in 2033 (T. Sutterfield, pers. comm. 1998). Approximately one-half of the lands under Navy lease are designated as Exclusive Military Use Area; the Navy allows grazing agriculture and other permitted uses on the remaining lands.

Activities in the Exclusive Military Use Area were outlined in the August 1998 Draft Environmental Impact Statement for Military Training in the

Marianas. Most military activities on Tinian in the future will be the same as past actions, including field maneuvers, a variety of aviation training and air-cushioned landing craft training. Such training has had little to no impact on the Tinian monarch population in the past and we do not expect it to impact this species in the future. Other proposed land uses in this area include construction of a small logistics support base camp, security gates, a small arms range and a mortar range, and the use of two beaches for amphibious assault vehicle landings. These activities may involve minimal clearing of monarch habitat but we do not expect them to jeopardize the monarch population. No other construction activities are planned for the area.

On the other Navy-leased lands that are available for non-military activities, large portions already contain fields suitable for grazing, and grazing in these areas is not likely to significantly affect the monarch population. Agriculture in this area, which is defined in the lease as planting, cultivating and harvesting of crops or fruit or nut bearing trees, may involve minimal clearing. However, we do not expect this to occur on a large scale because water is limited, and there is no irrigation system to allow cultivation of large tracts of land. Other uses could include the small-scale construction of permanent structures, most likely in the form of small houses built close to agriculture or grazing areas. Based on past trends on Tinian, we do not anticipate major construction activities on Navy-leased lands.

Approximately 10 percent of the total island is devoted to agriculture (e.g., taro, sweet potato, eggplant, etc.) while another 30 percent to 50 percent is used for cattle grazing (Engbring *et al.* 1986, Belt Collins 1994). The number of cattle grazing on the island has been reduced dropped by approximately 60 percent over the last two decades and this reduced grazing pressure should increase forest densities (Lusk *et al.* 1997). As cattle grazing decreases and revenue is lost through this enterprise, lands outside of Navy lease areas may be developed to make up for lost revenues, while lands under Navy lease are more likely to regenerate because any large scale development of these lands is prohibited (CNMI and USA 1994). Therefore, even though land clearing on Tinian may increase as a result of resort and casino development, approximately 71 percent of the remaining land on Tinian is covered by Navy lease until 2033. After this time the Navy has the option to renew its lease for another 50 years.

Although there are currently no specific plans by the CNMI government to set aside any of the land now leased by the Navy as conservation areas, we have begun discussions with the government of Tinian and the Navy to set aside conservation areas as mitigation for project development on other areas of Tinian. The Federal Aviation Administration (FAA), in its Pre-Final Environmental Assessment for Airport Improvements at Tinian International Airport, proposes to set aside, in perpetuity, 379 ha of monarch habitat as mitigation with the CNMI government and the Navy.

We anticipate conversion of portions of the remaining forests of Tinian for agriculture, military activities, resort and casino development, and housing for a growing human population in the future. A four hundred-room casino was recently completed on Tinian and two more are in the planning stages; only a total of five are permitted for the island (Mike Fitzgerald, Telesource CNMI, pers. comm. 1998). Even if additional development is permitted, it is unlikely that development or habitat destruction will approach the level that occurred during WWII within the foreseeable future. WWII was a major event which, in conjunction with previous clearing for agriculture, culminated in the clearing of approximately 95 percent of Tinian's native forest. In addition, most of the best monarch habitat, native limestone forest, is likely to remain protected simply because the majority of it occurs along steep cliff faces which cannot be developed. If all forested lands on Tinian were developed, except for the native limestone forest along steep cliff faces and the Navy-leased lands, we estimate that enough habitat would remain to support a population of 41,791 monarchs (75 percent of the current population—70 percent on protected Navy lands and 5 percent in undevelopable native limestone forest outside Navy lands).

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

The monarch is a small song bird and is not threatened by or sought for commercial, recreational, scientific, or educational purposes.

#### *C. Disease or Predation*

There are no known avian disease or predation problems on Tinian. At present all bird species on Tinian appear to have healthy populations. Exotic predators, such as rats (*Rattus rattus*), cats (*Felis catus*), and monitor lizards (*Varanus indicus*), and native predators, such as collared kingfishers

(*Halcyon chloris*) and Micronesian starlings (*Aplonis opacus*), are all potential predators of the monarch and currently exist on Tinian (USFWS 1996). However, the fact that the monarch population has increased over the past decade indicates that these predators are not limiting factors. There is concern on Tinian, as there is for all islands in Micronesia, that disease or additional predators might someday be introduced and pose a threat.

On Guam, in the southern Mariana Islands, the brown tree snake (*Boiga irregularis*), an introduced predator, has either extirpated or driven to extinction the majority of the native birds (Savidge 1987). There have been no sightings of brown tree snakes on Tinian since November 1995, when a total of four snakes were reported. No snakes have ever been captured on Tinian. However, with increased military activity and resort and casino construction on Tinian, the chance of an accidental introduction from Guam to Tinian is increased. In 1997, a cargo quarantine area, consisting of a hollow block wall with smooth finish and electrified mesh on top, was constructed at Tinian's port to hold incoming cargo for snake clearance. We required construction of the quarantine area as part of the Voice of America radio tower project on Tinian (USFWS 1995). A wildlife technician provided by the CNMI Division of Fish and Wildlife (DFW) maintains approximately 30 snake traps within the cargo quarantine area and around the entire port area (Vogt 1998). In addition, the CNMI DFW is tracking potential brown tree snake prey base species in the vicinity of the ports of Saipan, Tinian, and Rota as a method of early snake detection. Currently, the only potential prey monitored is the green anole lizard (*Anolis carolinensis*) population, but there are plans to monitor the shrew (*Suncus murinus*) population in the future as well (Vogt 1998). The CNMI Quarantine Division currently runs a sniffer dog program on Saipan that consists of two handlers and two dogs that check incoming cargo for brown tree snakes. The CNMI hopes to expand this program to Tinian and Rota by 1999. In addition, the CNMI conducts training for its DFW and Quarantine personnel with the U.S. Geological Survey Biological Resource Division and the U.S. Department of Agriculture Wildlife Services on Guam at least two to three times per year (Vogt 1998).

The Department of Defense is working with the Service toward the control of the snakes on Guam, particularly around transport centers (docks and airfields). We are actively funding

research into methods of controlling the snakes on Guam, in part, to reduce the threat of introduction to the other islands in this area of the Pacific. Both the CNMI DFW and Guam Department of Aquatic and Wildlife Resources conduct active brown tree snake public awareness educational campaigns consisting of school presentations, news releases, workshops, and poster/pamphlet distribution.

The delisting of the Tinian monarch is not expected to influence the current and on-going brown tree snake control and prevention programs in the CNMI. Funding for and implementation of these programs are not dependent on species protected under the Act. In 1996, the CNMI became a signatory of the Memorandum of Agreement between the local governments of Hawaii, Guam and the CNMI, and individual Federal government agencies concerned with brown tree snake eradication and control. This MOU commits the CNMI to a proactive brown tree snake program and allows the CNMI to apply for funding from the allotment of money appropriated by the U.S. Congress each year for brown tree snake control.

The governor of the CNMI has also signed a directive making it a priority for the Ports Authority and related agencies to work with the CNMI Division of Fish and Wildlife to develop effective snake interdiction strategies. Because of this, the DFW has been able to get a commitment from the Ports Authority for a quarantine yard at the port on Saipan for high risk cargo. We believe the quarantine yard on Saipan will indirectly benefit Tinian by preventing the spread of brown tree snakes into the CNMI. In addition, all construction companies operating in the CNMI must have a snake control plan. A typical plan calls for inspection of cargo, snake searches and possibly running snake traps at the job site.

#### *D. The Inadequacy of Existing Regulatory Mechanisms*

The monarch is presently listed on the CNMI's list of Threatened or Endangered Species, although no local regulations have been promulgated to specifically protect species on this list. Species on the CNMI threatened and endangered list primarily benefit from name recognition rather than through specific statutory protections. There are, however, other CNMI laws and regulations that protect the monarch. Legal protection for the monarch comes from Public Law 2-51 which states that it is illegal to kill, capture or harass forest birds (except doves which can be hunted with a license), including their

eggs or offsprings. The monarch is considered "protected wildlife" under this law. Protected wildlife includes native forest birds, waterfowl, shorebirds, seabirds and marine mammals. There are few, if any, enforcement problems, because the monarch is not harvested for commercial, recreational, or other purposes.

Perhaps more important than regulations specifically protecting the monarch are laws that protect the overall integrity of the island ecosystem, such as quarantine laws. Quarantine regulations have been promulgated and are enforced by the CNMI government at airports and ports of entry. The U.S. military is self-regulatory and enforces its own quarantine regulations. Other CNMI laws that protect the environment and provide indirect benefit to the monarch include the Coastal Resource Management Act (Public Law 3-47) which was enacted February 11, 1983. This law established the Coastal Resources Management Office, Coastal Advisory Council, and the Appeals Board to encourage land-use master planning, the development of zoning and building code legislation, and to promote the wise development of coastal resources. The Environmental Protection Act (Public Law 2-23) was enacted October 8, 1982. It established the Division of Environmental Quality, in part, to maintain optimal levels of air, land and water quality to protect and preserve the public health and general welfare. The Soil and Water Conservation Act (Public Law 4-44) was enacted May 1, 1985. It created the Soil and Water Conservation Program within the Department of Natural Resources to promote soil and water conservation by preventing erosion. Finally, the Fish, Game and Endangered Species Act (Public Law 2-51) was enacted October 19, 1981. It established the Division of Fish and Wildlife to provide the conservation of fish, game and endangered species of plants and animals.

#### *E. Other Natural or Manmade Factors Affecting Its Continued Existence*

We know of no threats to the monarch by any other natural or manmade factors.

The regulations at 50 CFR 424.11(d) state that a species may be delisted if (1) it becomes extinct, (2) it recovers, or (3) the original classification data were in error. We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. All available information indicates

that the monarch has recovered from formerly depleted numbers following WW II, and analysis of the five factors described in section 4(a)(1) shows that the species no longer meets the Act's definitions of threatened or endangered. Therefore, we propose to remove the Tinian monarch from the List of Endangered and Threatened Wildlife.

#### **Effects of This Rule**

This rule, if made final, will revise § 17.11 (h) to remove the Tinian monarch from the Federal list of Endangered and Threatened Wildlife, and will formally recognize that this species is not likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The prohibitions and conservation measures provided by the Act, particularly sections 7 and 9, will no longer apply to this species. Federal agencies would no longer need to consult with us to insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of the Tinian monarch.

The Tinian monarch is protected by the CNMI government (Public Law 2-51, 2 CMC 5108). Removal of Federal protection for the Tinian monarch does not nullify its protection by the local CNMI government. Future management actions conducted by both the CNMI government and the Service will primarily involve continuing to fund both research and implementation of brown tree snake control techniques to reduce the risk of introduction of snakes onto Tinian, but will also involve efforts to set aside parts of Tinian's forests as wildlife conservation areas.

#### **Monitoring**

The 1988 amendments to the Act (section 4(g)) require that all species that have been delisted due to recovery be monitored for at least 5 years following delisting. We intend to monitor the status of the Tinian monarch, in cooperation with the CNMI, through periodic field surveys of the distribution and population size of the monarch, monitoring of development and land clearing on Tinian, assessment of impacts of military training on Navy leased lands, and close monitoring of potential introduction of brown tree snakes onto the island.

#### **Public Comments Solicited**

##### *Proposed Delisting*

We intend that any final action resulting from this proposal be as accurate as possible. Therefore, we solicit comments or suggestions from

the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species;

(3) Additional information concerning range, distribution, and population sizes of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information we receive, and such communications may lead to a final determination that differs from this proposal.

The Endangered Species Act provides for one or more public hearings on this proposal, if requested. We must receive hearing requests within 45 days of the date of publication of the proposal in the **Federal Register**. You must make such requests in writing and address them to the Field Supervisor, Pacific Islands Ecoregion, U.S. Fish and Wildlife Service (see **ADDRESSES** section).

#### **Executive Order 12866**

Executive Order 12866 requires agencies to write regulations that are easy to understand. We invite your comments on how to make this proposal easier to understand including answers to questions such as the following: (1) Is the discussion in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposal? (2) Does the proposal contain technical language or jargon that interferes with its clarity? (3) Does the format of the proposal (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? What else could we do to make the proposal easier to understand?

Send a copy of any comments that concern how we could make this notice easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, DC 20240. You may also e-mail the comments to: Exsec@ios.doi.gov.

#### **National Environmental Policy Act**

We have determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of

1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining our reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

#### **Paperwork Reduction Act**

Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), require that interested members of the public and affected agencies have an opportunity to comment on agency information collection and record keeping activities (see 5 CFR 1320.8(d)). The OMB regulations at 5 CFR 1320.3(c) defines a collection of information as the obtaining of information by or for an agency by means of identical questions posed to, or identical reporting, record keeping, or disclosure requirements imposed on ten or more persons. Furthermore, 5 CFR 1320.3(c)(4) specifies that "ten or more persons" refers to the persons to whom a collection of information is addressed by the agency within any 12-month period.

This rule does not include any collections of information that require approval by OMB under the Paperwork Reduction Act. The information needed to monitor the status of the Tinian monarch will be collected primarily by Service, Navy, and the CNMI DFW. We do not anticipate a need to request data or other information from the public, other than the DFW, to satisfy monitoring information needs. If it becomes necessary to collect information from ten or more individuals, groups, or organizations per year, we will first obtain information collection approval from OMB.

#### **References Cited**

A complete list of all references cited herein is available upon request from the Pacific Islands Ecoregion (see **ADDRESSES** section).

**Author.** The primary author of this proposed rule is Michael Lusk, Pacific Islands Ecoregion, U.S. Fish and Wildlife Service (see **ADDRESSES** section).

#### **List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and

recordkeeping requirements, Transportation.

#### **Proposed Regulation Promulgation**

For the reasons set out in the preamble, we hereby propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

#### **PART 17—[AMENDED]**

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

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

#### **§ 17.11 [Amended]**

2. Amend § 17.11(h) by removing the entry "Monarch, Tinian (old world flycatcher)" under "BIRDS" from the List of Endangered and Threatened Wildlife.

Dated: January 7, 1999.

**Jamie Rappaport Clark,**

*Director, Fish and Wildlife Service.*

[FR Doc. 99–4206 Filed 2–19–99; 8:45 am]

BILLING CODE 4310–55–P