

attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

#### *How Can I Be Sure That My Comments Were Received?*

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

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#### *Will the Agency Consider Late Comments?*

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

#### *How Can I Read the Comments Submitted by Other People?*

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Go to the Docket Management System (DMS) Web page of the Department of Transportation (<http://dms.dot.gov/>).

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On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

#### **List of Subjects in 49 CFR Part 571**

Imports, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR Chapter V as follows:

#### **PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**

1. The authority citation for Part 571 of Title 49 would continue to read as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.208 would be amended by revising S14.1.1.1 to read as follows:

#### **§ 571.208 Standard No. 208; Occupant crash protection.**

\* \* \* \* \*  
S14.1.1.1 *Vehicles manufactured on or after September 1, 2003, and before September 1, 2004.* Subject to S14.1.2(a), for vehicles manufactured by a manufacturer on or after September 1, 2003, and before September 1, 2004, the amount of vehicles complying with S14.5.1(a), S14.5.2, S15.1, S15.2, S17, S19, S21, S23, and S25, shall be not less than 20 percent of:

(a) If the manufacturer has manufactured vehicles for sale in the United States during both of the two production years prior to September 1, 2003, the manufacturer's average annual production of vehicles manufactured on or after September 1, 2001, and before September 1, 2004, or

(b) The manufacturer's production on or after September 1, 2003, and before September 1, 2004.

\* \* \* \* \*

Issued: September 19, 2002.

**Roger A. Saul,**

*Director, Office of Crashworthiness Standards.*

[FR Doc. 02-24236 Filed 9-19-02; 3:57 pm]

**BILLING CODE 4910-59-P**

## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 17**

#### **RIN 1018-A151**

### **Endangered and Threatened Wildlife and Plants; Listing of the Flat-Tailed Horned Lizard as Threatened**

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

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period for the proposed listing of the flat-tailed horned lizard (*Phrynosoma mcallii*) as a threatened species pursuant to the Endangered Species Act of 1973, as amended (Act). The purpose of reopening the public comment period is to allow for peer review of the proposed rule (58 FR 62624) and its subsequent withdrawal (62 FR 37852) according to our 1994 Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities (59 FR 34270), additional public comment on the reinstatement of the proposed listing rule, and submission of any additional information that may assist us in making a final listing decision. Comments previously submitted need not be resubmitted as they have been incorporated into the public record and will be fully considered in the final listing determination.

**DATES:** The public comment period is reopened for a period of 15 days, and we will accept comments until October 9, 2002. Comments must be received by 5 p.m. on the closing date. Any comments that are received after the closing date may not be considered in the final decision on this action.

**ADDRESSES:** Comment Submission: If you wish to comment on the reinstated proposed rule or provide additional information concerning the status and distribution of the species, as well as information pertaining to threats to the species or its habitat, you may submit your comments and materials by any one of several methods:

(1) You may submit written comments and information to Field

Supervisor, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, CA 92008.

(2) You may hand-deliver written comments to our Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, CA.

(3) You may send comments by electronic mail (e-mail) to [fthl@r1.fws.gov](mailto:fthl@r1.fws.gov). Please submit comments in ASCII file format and avoid the use of special characters and encryption. Please include your name and return e-mail address in your e-mail message. Please note that the e-mail address will be closed out at the termination of the public comment period. If you do not receive confirmation from the system that we have received your e-mail message, contact us directly by calling our Carlsbad Fish and Wildlife Office at telephone number 760/431-9440.

**Document Availability:** Comments and materials received, as well as supporting documentation used in the preparation of the proposed rule and subsequent withdrawal, and additional information obtained since the time of the withdrawal that will be used for this final determination, are available for public inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office.

**FOR FURTHER INFORMATION CONTACT:** Douglas Krofta, Branch Chief, Division of Listing, or Matt McDonald, Wildlife Biologist, Carlsbad Fish and Wildlife Office (see **ADDRESSES**; telephone 760/431-9440; facsimile 760/431-9624). Information is available in alternate formats upon request.

**SUPPLEMENTARY INFORMATION:**

The flat-tailed horned lizard is a small, cryptically colored lizard that reaches a maximum adult body length (excluding the tail) of approximately 81 millimeters (3.2 inches). The lizard has a flattened body, short tail, and dagger-like head spines like other horned lizards. It is distinguished from other horned lizards in its range by a dark vertebral stripe, two slender elongated occipital spines, and the absence of external ear openings. The upper surface of the flat-tailed horned lizard is pale gray to light rusty brown. The underside is white and unmarked, with the exception of a prominent umbilical scar.

The flat-tailed horned lizard is endemic (restricted) to the Sonoran Desert in southern California and Arizona and northern Mexico. The species inhabits desert areas of southern Riverside, eastern San Diego, and

Imperial Counties in California; southwestern Arizona; and adjacent regions of northwestern Sonora and northeastern Baja California Norte, Mexico. Within the United States, populations of the flat-tailed horned lizard are concentrated in portions of the Coachella Valley, Ocotillo Wells, Anza Borrego Desert, West Mesa, East Mesa, and the Yuma Desert in California; and the area between Yuma and the Gila Mountains in Arizona. The flat-tailed horned lizard occurs at elevations up to 520 meters (m) (1700 feet (ft)) above sea level, but most populations are below 250 m (820 ft) elevation.

According to Hodges (1997), approximately 51.2 percent of the historic range of the flat-tailed horned lizard habitat within the United States remains. This remaining habitat includes an estimated 503,500 hectares (ha) (1,244,00 acres (ac)) of habitat in the United States, of which approximately 56,800 ha (140,300 ac) occur in Arizona and 446,670 ha (1,103,800 ac) occur in California. Within this range, the lizard typically occupies sparsely vegetated, sandy desert flatlands with low plant species diversity, but it is also found in areas with small pebbles or desert pavement, mud hills, dunes, alkali flats, and low, rocky mountains.

Based on information obtained since the withdrawal of the proposed listing rule and the information documented in the proposed rule itself, threats to the flat-tailed horned lizard may include one or more of the following: commercial and residential development; agricultural development; off-highway vehicle activity; energy developments; military activities; introduction of nonnative plants; pesticide use; and border patrol activities along the United States-Mexico border.

In 1982, we first identified the flat-tailed horned lizard as a category 2 candidate species for listing under the Act (47 FR 58454). Service regulations defined category 2 candidate species as "taxa for which information in the possession of the Service indicated that proposing to list as endangered or threatened was possibly appropriate, but for which sufficient data on biological vulnerability and threats were not currently available to support proposed rules." In 1989, we elevated the species to category 1 status (54 FR 554). Category 1 included species "for which the Service has on file sufficient information on biological vulnerability and threat(s) to support issuance of a proposed rule." Subsequently, on November 29, 1993, we published a

proposed rule to list the flat-tailed horned lizard as a threatened species pursuant to the Act (58 FR 62624).

On May 16, 1997, in response to a lawsuit filed by the Defenders of Wildlife to compel us to make a final listing determination on the flat-tailed horned lizard, the District Court in Arizona ordered us to issue a final listing decision within 60 days. A month after the District Court's order, several State and Federal agencies signed a Conservation Agreement (CA) implementing a recently completed range-wide management strategy to protect the flat-tailed horned lizard. Pursuant to the CA, cooperating parties agreed to take voluntary steps aimed at "reducing threats to the species, stabilizing the species' populations, and maintaining its ecosystem."

On July 15, 1997, we issued a final decision to withdraw the proposed rule to list the flat-tailed horned lizard as a threatened species (62 FR 37852). The withdrawal was based on three factors: (1) Population trend data did not conclusively demonstrate significant population declines; (2) some of the threats to the flat-tailed horned lizard habitat had grown less serious since the proposed rule was issued; and (3) the belief that the recently approved "conservation agreement w[ould] ensure further reductions in threats."

Six months following our withdrawal of the proposed listing rule, the Defenders of Wildlife filed a lawsuit challenging our decision. On June 16, 1999, the District Court for the Southern District of California granted summary judgement in our favor upholding our decision not to list the flat-tailed horned lizard. However, on July 31, 2001, the Ninth Circuit Court of Appeals reversed the lower court's ruling and directed the District Court to remand the matter back to us for further consideration in accordance with the legal standards outlined in its opinion. On October 24, 2001, the District Court ordered us to reinstate the previously effective proposed listing rule within 60 calendar days and, thereafter, commence a 12-month statutory time schedule for a final listing decision. On December 26, 2001, we published a notice announcing the reinstatement of the 1993 proposed listing of the flat-tailed horned lizard as threatened and the opening of a 120-day public comment period on the reinstated proposed rule (66 FR 66384). On May 30, 2002, we published a notice announcing the reopening of the public comment period to allow for the submission of additional public comment and information to assist us in making a final listing determination (67 FR 37752).

This notice announces the reopening of the public comment period on this reinstated rulemaking for 15 days to allow for peer review of the proposed rule (58 FR 62624) and its subsequent withdrawal (62 FR 37852) according to our Peer Review Policy (59 FR 34270), accept public comment on the reinstated proposed rule, and collect updated information concerning the species ecology and distribution, threats, conservation/management actions, and any additional available information to assist us in making a final listing determination based on the best scientific and commercial data available.

We are specifically seeking information about the flat-tailed horned lizard and its habitat concerning: (1) Threats to the species as a whole or to local populations and its habitat; (2) the size, number, and distribution of known populations; (3) sufficiency of current conservation/management and/or regulatory mechanisms for the flat-tailed horned lizard and its habitat; and (4) the conservation value of different populations across the range of the species.

#### Author

The primary author of this notice is Douglas Krofta, Carlsbad Fish and Wildlife Office (see **ADDRESSES**).

**Authority:** The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: September 3, 2002.

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

*Acting Director, Fish and Wildlife Service.*

[FR Doc. 02-24025 Filed 9-23-02; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AH02

#### Endangered and Threatened Wildlife and Plants; Designations of Critical Habitat for Plant Species From the Island of Hawaii, Hawaii

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

**ACTION:** Proposed rule; extension of comment period, and public hearing announcement.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) gives notice of two public hearings on the proposed critical habitat designations for 47 plants from the island of Hawaii. The comment

period for the proposed critical habitat designations originally closed on July 29, 2002. The comment period was reopened on August 26, 2002, and was scheduled to close on September 30, 2002. We are now announcing two public hearings and are extending the comment period to allow all interested parties to submit oral or written comments on the proposal. We are seeking comments or suggestions from the public, other concerned agencies, the scientific community, industry, or any other interested parties concerning the proposed rule. Comments already submitted on the proposed rule need not be resubmitted as they will be fully considered in the final determination.

**DATES:** The comment period for this proposal now closes on November 30, 2002. Any comments received by the closing date will be considered in the final decision on this proposal. Two public hearings will be held on the island of Hawaii, on Tuesday, October 29, 2002, in Kailua-Kona from 5:30 p.m. to 8:30 p.m. and on Wednesday, October 30, 2002, in Hilo from 6:00 p.m. to 8:00 p.m. Prior to both public hearings, the Service will be available from 3:30 to 4:30 p.m. to provide information and to answer questions. The Service will also be available for questions after the hearings.

**ADDRESSES:** The public hearing in Kailua-Kona will be held at the King Kamehameha Hotel, 75-5660 Palani Road, Kailua-Kona, HI. The public hearing in Hilo will be held at the Hawaii Naniloa Resort, 93 Banyon Dr., Hilo, HI. Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Boulevard, Room 3-122, P.O. Box 50088, Honolulu, HI 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:** Paul Henson, at the above address (telephone 808/541-3441; facsimile 808/541-3470).

#### SUPPLEMENTARY INFORMATION:

The public hearing scheduled in Kailua-Kona for the proposed critical habitat designations for 47 plants from the island of Hawaii announced in this **Federal Register** notice and the public hearing for the proposal to designate critical habitat for Blackburn's sphinx moth announced in a separate **Federal Register** notice are scheduled for the same date, time, and location as a matter of convenience to the public. We will accept comments at the Kailua-Kona public hearing on the proposed critical habitat designations for 47 plants from

the island of Hawaii, as well as the proposal to designate critical habitat for Blackburn's sphinx moth.

#### Background

On May 28, 2002, we published a proposed critical habitat rule for 47 of the 58 plant species listed under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), known historically from the island of Hawaii (67 FR 36968).

A total of 58 species historically found on the island of Hawaii were listed as endangered or threatened species under the Act between 1991 and 1996. Some of these species may also occur on other Hawaiian islands. In previously published proposals we proposed that critical habitat was prudent for 31 (*Achyranthes mutica*, *Adenophorus periens*, *Asplenium fragile* var. *insulare*, *Bonamia menziesii*, *Cenchrus agrimonioides*, *Clermontia lindseyana*, *Clermontia peleana*, *Colubrina oppositifolia*, *Ctenitis squamigera*, *Delissea undulata*, *Diellia erecta*, *Flueggea neowawraea*, *Gouania vitifolia*, *Hedyotis cookiana*, *Hedyotis coriacea*, *Hibiscus brakenridgei*, *Ischaemum byrone*, *Isodendron pyrifolium*, *Mariscus fauriei*, *Mariscus pennatifolius*, *Phlegmariurus mannii*, *Phyllostegia parviflora*, *Plantago princeps*, *Portulaca sclerocarpa*, *Sesbania tomentosa*, *Silene lanceolata*, *Solanum incompletum*, *Spermolepis hawaiiensis*, *Tetramolopium arenarium*, *Vigna o-wahuensis*, and *Zanthoxylum hawaiiense*) of the 58 species reported from the island of Hawaii. No change is made to the 31 proposed prudency determinations in the May 28, 2002, proposed critical habitat rule for plants from Hawaii. In the May 28, 2002, proposal we proposed that designation of critical habitat was not prudent for two species, *Pritchardia affinis* and *Pritchardia schattaueri*, because it would likely increase the threat from vandalism or collection of these species on the island of Hawaii (67 FR 36968). In addition, we proposed that critical habitat designation was not prudent for two species, *Cyanea copelandii* ssp. *copelandii* and *Ochrosia kilaueaensis*, known only from the island of Hawaii, that have not been seen in the wild since 1957 and 1927, respectively, and for which no viable genetic material is known to exist (67 FR 36968). In the May 28, 2002, proposed critical habitat rule, we proposed that designation of critical habitat is prudent for 23 species (*Argyroxiphium kauense*, *Clermontia drepanomorpha*, *Clermontia pyralia*, *Cyanea hamatiflora* ssp. *carlsonii*, *Cyanea platyphylla*, *Cyanea shipmanii*, *Cyanea sticophylla*, *Cyrtandra giffardii*,