

the adequacy of intercity bus services. Certain trade organizations in the industry have petitioned the Commission to adopt suggested amendments concerning publishing regular-route bus schedules; providing notice of schedule changes; and operating computerized reservation systems.

**DATES:** Comments are due November 3, 1993.

**ADDRESSES:** Send comments (an original and 10 copies), referring to Ex Parte No. MC-95 (Sub-No. 7), to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

**FOR FURTHER INFORMATION CONTACT:**

Beryl Gordon, (202) 927-5610; or James L. Brown, (202) 927-5303. [TDD for hearing impaired: (202) 927-5721.]

**SUPPLEMENTARY INFORMATION:** The American Bus Association, United Bus Owners of America, and Independent Bus Companies Creditors (petitioners) jointly filed a petition on January 14, 1993, requesting that we adopt amended regulations that would (1) require all motor passenger carriers to cooperate with one another in providing a single publication containing the schedules of all regular-route carriers; (2) require regular-route motor passenger carriers to provide at least 30 days' advance notice of schedule changes; and (3) assure access to any computerized reservation system by all other carriers at cost and on a nondiscriminatory basis.

The Commission's decision contains additional information. To obtain a copy of the decision, write to, call, or pick up in person from: Office of the Secretary, room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 927-7423. [Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

**Regulatory Flexibility**

Because this is not a notice of proposed rulemaking within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), we need not make, at this time, the small business impact examination required by that Act. We are, however, particularly concerned that the suggestions in the petition may have a significant negative impact on small businesses and other small organizations, because the suggested amendments would affect carriers other than those most directly affected by the problems for which petitioners seek solutions. Accordingly, we specifically request comments from interested persons regarding the impact of the suggested amendments on small entities. If we decide to issue a notice

of proposed rulemaking in this matter, we will conduct an appropriate Regulatory Flexibility Act examination at that time.

**Environmental Statement**

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

**Authority:** 5 U.S.C. 553 and 559 and 49 U.S.C. 10102, 10321, 10701, 10702-10705, 10708, 10721, 10722, 10723, 10724, 10730, 10741, 10761, 10762, 10764, 10922, 11101, 11141-11145, 11701, 11702, 11707, 11708, 11901, 11904, 11906, 11909, 11910, and 11914

**List of Subjects in 49 CFR Part 1063**

Aged, Blind, Euses, Handicapped, Motor carriers.

Decided: September 27, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden. Vice Chairman Simmons, joined by Chairman McDonald, dissented with a separate expression.

**Sidney L. Strickland, Jr.**

*Secretary.*

[FR Doc. 93-24269 Filed 10-1-93; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**RIN 1018-AC09**

**Endangered and Threatened Wildlife and Plants; Proposed Rule To List the Hine's Emerald Dragonfly as Endangered**

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

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) proposes to determine Hine's emerald dragonfly (*Somatochlora hineana*) to be an endangered species pursuant to the Endangered Species Act of 1973, as amended (Act). Historically, this dragonfly was reported from isolated sites in Indiana and Ohio. Recent reports indicate that it is present at five Illinois sites within Cook, DuPage, and Will Counties and at five Wisconsin sites in Door County. This species is threatened primarily by habitat loss and modification. This proposal, if made final, would extend the Federal protection and recovery provisions afforded by the Act to *Somatochlora hineana*. Critical habitat is not being proposed at this time. The

Service seeks data and comments from the public on this proposal.

**DATES:** Comments from all interested parties must be received by December 3, 1993. Public hearing requests must be received by November 18, 1993.

**ADDRESSES:** Comments and materials concerning this proposal should be sent to the Division of Endangered Species, U.S. Fish and Wildlife Service, Bishop Henry Whipple Federal Building, One Federal Drive, Fort Snelling, Minnesota 55111-4056. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:**

T.J. Miller, Acting Chief, Division of Endangered Species, at the above address (telephone 612/725-3276).

**SUPPLEMENTARY INFORMATION:**

**Background**

Hine's emerald dragonfly, also known as the Ohio emerald dragonfly, was described in 1931 from seven adults collected June 7 and 14, 1929, and July 4, 1930, near Indian Lake, Logan County, Ohio (Williamson 1931). It is a dragonfly (class Insecta, order Odonata) with bright, emerald-green eyes. Its body is 60-65 mm (ca. 2.5 inches) long and the male has a pair of distinctive, clasper-like appendages at the end of the abdomen. The wingspan is 80-85 mm (ca. 3.3 inches). The thorax is metallic green, with two distinct creamy yellow lateral stripes. The bright green eyes and yellow lateral stripes separate this species from similar species.

Cashatt (1991) indicated that the Illinois habitat of the Hine's emerald dragonfly consists of complex wetlands with small, shallow, spring-fed streams that drain into wet meadows and cattail marshes. These marshes are found primarily along the Des Plaines River drainage. Wisconsin habitat consists of small, calcareous, marshy streams and associated cattail marshes on dolomite bedrock.

Price (1958) reported collecting a total of 21 specimens in Ohio from Lucas County (Mud Lake in 1949, and from Oak Openings State Park in 1952, 1953, and 1956) and from Williams County (Bridgewater Township) in 1956. Until recently, the species was reported only from Ohio and Indiana (Montgomery 1953, Bick 1983). Recent investigations indicated that the species has apparently been extirpated from Ohio. Only one adult male was collected in Indiana (near Gary) and the species' status in Indiana is uncertain (Montgomery 1953, Bick 1983).

On May 22, 1984, the Service published in the *Federal Register* its first listing of invertebrate animal species being considered for listing under the Act. Hine's emerald dragonfly (under the common name of Ohio emerald dragonfly) was designated a category 2\* species. The asterisk indicated that it was possibly extinct, but that insufficient information was available for either listing or for declaring it extinct. No additional distribution information was available until 1990, when the Service supported investigations in Wisconsin by Vogt and Cashatt (1990) and in Illinois by Cashatt and Vogt (1990). These investigations confirmed the presence of remnant populations in these states. In Wisconsin, Vogt and Cashatt (1990) surveyed 27 potential sites in 9 eastern counties with the species being found in 5 sites in Door County. In Illinois, Cashatt and Vogt (1990) surveyed 28 potential sites in 5 counties and reported it present at 5 sites in Cook, DuPage, and Will Counties. Based on these status surveys, the small size and disjunct distribution of the remnant populations, and the immediacy of threats to the remnant populations, the Service determined that the species warranted protection under the Act.

Hine's emerald dragonfly is listed as endangered by the International Union for the Conservation of Nature, is on the Illinois State endangered species list, and is being added to the Wisconsin State endangered species list.

#### Summary of Factors Affecting the Species

Section 4(a)(1) of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species determined to be an endangered or threatened species may be endangered or threatened due to one or more of the five factors described in Section 4(a)(1). These factors and their application to Hine's emerald dragonfly (*Somatochlora hineana*) are as follows:

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

The greatest threat to the species in Illinois and Wisconsin is habitat destruction. In Wisconsin's Door County, land development by agricultural, tourist, and recreational interests pose various threats to Hine's emerald dragonfly sites. Pesticide drift and run-off from Door County's apple and cherry orchards is a potential threat. Contaminated groundwater-to-surface

recharge and contaminated surface runoff may carry pesticides to the species' sites. If gypsy moth control is instituted in Door County it could also affect Hine's emerald dragonfly populations. There is an open highway salt storage area within 100 feet and draining into one Hine's emerald dragonfly stream site in Door County and a solid waste dump is being considered for development near another site. Beaver are common in Door County and their impoundments can eliminate the microhabitat of the aquatic dragonfly nymphs.

In Illinois, the remaining sites for the Hine's emerald dragonfly are located in Cook, DuPage, and Will Counties. These three counties are in the Chicago metropolitan area and represent the fastest-growing counties in that area. The sites in these counties are already highly fragmented and are further threatened by urban and industrial development. Industrial development in the immediate vicinity of the sites includes a petroleum refinery, a sewage treatment plant, rock quarries, an electrical power plant, and an asphalt plant. These facilities degrade surface water, ground water, and air quality in the vicinity of Hine's emerald dragonfly sites. Degraded ground water quality is a particular concern because the sites receive water from seeps and springs. Proposed highway FAP-431, an extension of I-355, also threatens the species' habitat. A variety of other developments in this rapidly-growing area are in various stages of planning and execution and also threaten the dragonfly's habitat.

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

Overutilization is not believed to be a factor in the species' continued existence, but the proposal, if published, will prohibit unauthorized collection of individuals of the species. Protection from collection may become important because collectors may seek the species if it becomes listed.

##### C. Disease or Predation

The importance of these factors is presently unknown.

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

The wetland habitat of Hine's emerald dragonfly is protected from physical, chemical, and biological degradation by provisions of the Clean Water Act. However, regulatory programs that implement the Clean Water Act have not effectively protected this dragonfly's habitat from being destroyed,

fragmented, and chemically degraded. The Hine's emerald dragonfly is under review for listing as an endangered species by the State of Wisconsin and is presently listed as endangered by the State of Illinois and by the International Union for the Conservation of Nature. State and Federal regulations are only partially effective in forestalling incremental habitat loss until a species using that habitat is formally listed as endangered or threatened. With the listing of the Hine's emerald dragonfly, such Federal laws and regulations would be used to protect the species' habitat.

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

Automobile impact is a threat where sites are near highways because individuals of the species tend to hover over highways, perhaps mistaking them for water, as part of their hunting and territorial defense strategies.

The Service has 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. Based on this evaluation, the preferred action is to list Hine's emerald dragonfly as endangered.

##### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that critical habitat be designated to the maximum extent prudent and determinable concurrent with the determination that a species is endangered or threatened. The Service finds that designation of critical habitat for the Hine's emerald dragonfly is not presently determinable. The presently known populations of this species are located on fragmented and degraded wetland habitats. The size, location, area, spatial configuration, and composition of specific areas essential to the conservation of the Hine's emerald dragonfly or which may require special management considerations or protection cannot be determined without further study.

The Service will initiate a concerted effort to obtain the information needed to determine critical habitat for the Hine's emerald. When the Service finds that critical habitat is not determinable at the time of listing, regulations require the Service to make determination within two years of the date of the proposed rule to list the species (50 CFR 424.17(b)(2)). A proposed rule for critical habitat designation must be published in the *Federal Register*, and the notification process and public comment provisions parallel those for a species listing. In addition, the Service

will evaluate the economic and other relevant impacts of the critical habitat designation, as required under Section 4(b)(2) of the Act.

#### Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered or threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (including capture, harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain

exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered or threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

In some instances, permits may be issued for a specified time to relieve undue economic hardship that would be suffered if such relief were not available. This species is not in trade, and such permit requests are not expected.

#### Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought 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 and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

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

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

Final promulgation of the regulation(s) on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to \* \* \* (appropriate Washington Office, Regional Office, or Field Office address or refer to ADDRESSES section).

#### National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, 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 Act. A notice outlining the Service's reasons for this determination was published in the *Federal Register* on October 25, 1983 (48 FR 49244).

#### References Cited

- Bick, G.H. 1983. Odonata at risk in the conterminous United States and Canada. *Odonatologica* 12:209-226.
- Cashatt, E.D. 1991. A vulnerable species: The Ohio emerald dragonfly. *The Living Museum* 53(2):29-30.
- Cashatt, E.D. and T.E. Vogt. 1990. The Illinois 1990 status survey for the Ohio emerald dragonfly (*Somatochlora hineana*) Williamson. Illinois State Museum, Springfield. 26pp.
- Montgomery, B.E. 1953. Notes and records of Indiana Odonata, 1951-1952. *Proc. Indiana Acad. Sci.* 62: 200-202.
- Price, H.F. 1958. Additional notes on the dragonflies of northwestern Ohio. *Ohio J. Sci.* 58: 50-62.
- U.S.F.W.S. 1984. Endangered and threatened wildlife and plants; animal notice of review. 49 FR 21667.
- U.S.F.W.S. 1989. Endangered and threatened wildlife and plants; animal notice of review. 54 FR 567.
- Vogt, T.E. and E.D. Cashatt. 1990. The 1990 Wisconsin status survey for the Ohio emerald dragonfly (*Somatochlora hineana*) Williamson. Wisconsin Dept. of Natural Resources, Madison. 14pp.
- Williamson, E.B. 1931. A new North American *Somatochlora* (Odonata: Corduliidae). *Occ. Pap. Mus. Zool. Univ. Mich.* 225: 1-8.

#### Author

The primary author of this proposed rule is Charles G. Kjos (see ADDRESSES above). Everett D. Cashatt, Zoology Section, Illinois State Museum, Springfield, Illinois 62706, (217) 782-6689 and Timothy E. Vogt, Bureau of Endangered Resources, Wisconsin Department of Natural Resources, Box 7921, Madison, Wisconsin 53707-7921, (608) 266-8736, provided substantial information.

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

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

#### Regulation Promulgation

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

**PART 17—[AMENDED]**

U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

**§ 17.11 Endangered and threatened wildlife.**

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

**Authority:** The Endangered Species Act 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16

2. Section 17.11(h) is amended by adding the following, in alphabetical order under "Insects" to the List of Endangered and Threatened Wildlife:

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

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
INSECTS							
Hine's emerald (Ohio emerald dragonfly).	<i>Somatochlora hineana</i>	U.S.A. (IL, IN, OH, & WI).	NA	E	.....	NA	NA

Dated: September 14, 1993.  
**Bruce Blanchard,**  
 Acting Director, U.S. Fish and Wildlife Service.  
 [FR Doc. 93-24291 Filed 10-1-93; 8:45 am]  
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