

September 8, 1995, except for condition Nos. 9 pertaining to non-VOC and non-NO<sub>x</sub> pollutants and expiration date of the plan approval.

(ii) Additional Material.

(A) Remainder of the Commonwealth of Pennsylvania's December 8, 1995 submittal.

(B) Additional material submitted by Pennsylvania dated May 23, 1997, providing clarifying information related to Pennzoil Products Company plan approval.

[FR Doc. 97-15102 Filed 6-10-97; 8:45 am]

BILLING CODE 6560-50-P

## GENERAL SERVICES ADMINISTRATION

### 41 CFR Part 101-38

[FPMR Amendment G-111]

RIN 3090-AG26

### Motor Vehicles

**AGENCY:** Office of Governmentwide Policy, GSA.

**ACTION:** Final rule; correction.

**SUMMARY:** This document contains corrections to a final rule published in the **Federal Register** on Friday, January 3, 1997, 62 FR 322. FPMR Amendment G-111, which governs the management of motor vehicles.

**EFFECTIVE DATE:** January 3, 1997.

**FOR FURTHER INFORMATION CONTACT:** Sharon A. Kiser, Federal Acquisition Policy Division (202-501-216).

**SUPPLEMENTARY INFORMATION:** In rule document 97-52 appearing at 62 FR 322, GSA revised Part 101-38. This document corrects three errors.

### Corrections

#### § 101.38 [Corrected]

1. On page 324, second column, "**PART 101-38—MOTOR EQUIPMENT MANAGEMENT**" is corrected to read "**PART 101-38—MOTOR VEHICLE MANAGEMENT.**"

2. On page 325, the table in 101-38.104(b)(3) is corrected by adding the following footnotes.

"1 Established by section 502 of the Motor Vehicle Information and Cost Savings Act (89 Stat. 902, 15 U.S.C. 2002) and the Secretary of Transportation.

2 Established by the Secretary of Transportation and mandated by Executive Order 12003 through fiscal year 1981 and by Executive Order 12375 beginning in fiscal year 1982.

3 Fleet average fuel economy for light trucks is the combined fleet average fuel economy for all 4x2 and 4x4 light trucks.

4 Requirements not yet established by the Secretary of Transportation."

3. On page 328, first column, instruction 13 is corrected to read "13. Section 101-38.401-1 is amended by removing the introductory text, removing paragraph (b), redesignating paragraph (c) as paragraph (b), and revising paragraph (a) introductory text to read as follows:"

Dated: June 5, 1997.

**Sharon A. Kiser,**

*FAR Secretariat.*

[FR Doc. 97-15229 Filed 6-10-97; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AC52

#### Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for *Castilleja levisecta* (Golden Paintbrush)

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

**ACTION:** Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) determines threatened status pursuant to the Endangered Species Act of 1973, as amended (Act), for the plant *Castilleja levisecta* (golden paintbrush). This species once occurred from Oregon to Vancouver Island in British Columbia, Canada. Ten populations of this plant now exist in open grasslands ranging from south of Olympia in Thurston County, Washington, north through the Puget Trough to southwest British Columbia, Canada. Threats to the species include competition with encroaching native and non-native plant species; habitat modification through succession in the absence of fire; and grazing by herbivores. Direct human-caused threats include conversion of habitat for residential and commercial development, conversion to agriculture, and possible damage associated with road maintenance. This rule implements the Federal protections afforded by the Act for this plant.

**EFFECTIVE DATE:** July 11, 1997.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the Western Washington Office, North Pacific Coast Ecoregion, U.S. Fish and Wildlife Service, 510 Desmond Drive S.E., Suite 101, Lacey, Washington 98503-1273.

**FOR FURTHER INFORMATION CONTACT:** Dave Frederick, Supervisor, at the above

Lacey address (telephone 360/753-9440).

### SUPPLEMENTARY INFORMATION:

#### Background

*Castilleja levisecta* (golden paintbrush) was first collected near Mill Plain, Washington, by Thomas Jefferson Howell in 1880 and was described by Jesse More Greenman in 1898 (Greenman 1898). A perennial herb of the figwort family (Scrophulariaceae), *C. levisecta* typically has 1 to 15 erect to spreading unbranched stems, reaches a height of 30 centimeters (cm) (12 inches (in)), and is covered with soft, sticky hairs. The lower leaves are entire and narrowly pointed; the upper leaves are broader, usually with one to three pairs of short lateral lobes on the distal end. The flower, mostly hidden by the overlapping bracts, has a calyx 15 to 18 millimeters (mm) (0.6 to 0.7 in) long and deeply cleft, and a corolla 20 to 23 mm (0.8 to 0.9 in) long, with a slender galea (concave upper lip) three to four times the length of the unpouched lower lip (Hitchcock and Cronquist 1973). It is distinguished from the other *Castilleja* species within its range by brilliant golden to yellow floral bracts. The plant flowers from April to June. When not flowering, the plant is less conspicuous. The species may be semi-parasitic like other members of the genus *Castilleja*, possibly requiring a host plant for seedling development in its native habitat (Heckard 1962, Sheehan and Sprague 1984). However, greenhouse experiments indicate it does not require a host to survive and flower (Wentworth 1994).

The plant tends to grow in clumps. One genetic individual may consist of 1 to 15 stems, making the determination of exact numbers of individual plants in the field difficult. The number of stems per plant varies site to site. In addition, researchers have used a variety of census methods over the years. Therefore, population estimates can vary and a consistent approach is needed. Experimentally designed sampling surveys have been conducted where individual plants were tagged and counted (Wentworth 1994). Year to year variation in population densities can be high (G. Douglas, Conservation Data Center, British Columbia Ministry of Environment, Lands and Parks, pers. comm. 1996; Wentworth 1994).

*Castilleja levisecta* occurs in open grasslands at elevations below 100 meters (m) (328 feet (ft)) around the periphery of the Puget Trough. Most populations occur on glacially derived soils, either gravelly glacial outwash or clayey glacio-lacustrine sediments

(Sheehan and Sprague 1984, Gamon 1995). Associated species include *Festuca idahoensis*, *F. rubra*, *Camassia quamash*, *Holcus lanatus*, *Achillea millefolium*, *Pteridium aquilinum*, *Vicia* spp., and *Bromus* spp. (Gamon 1995). Frequent, low intensity fires can be important in maintaining habitat for plant species such as *C. levisecta*. Historically, periodic fires in the Puget Trough were instrumental in maintaining native grassland habitat by limiting successional encroachment of trees and shrubs (Agee 1993, Kruckeberg 1991, Sheehan and Sprague 1984).

Historically, *Castilleja levisecta* has been reported from over 30 sites in the Puget Trough of Washington and British Columbia, and as far south as the Willamette Valley of Oregon (Sheehan and Sprague 1984, Gamon 1995). In 1984, the Service granted funding to the Washington Natural Heritage Program (Washington Department of Natural Resources) to conduct an assessment of the status of the species throughout its range. The plant was found to be extirpated from more than 20 historic sites (Sheehan and Sprague 1984, Gamon 1995). Many populations were found to be extirpated due to conversion of habitat to agricultural, residential, and commercial development. In Oregon, *C. levisecta* historically occurred in the grasslands and prairie of the Willamette Valley; the species has been extirpated from all of these sites as the habitat has disappeared. The area around the type locality at Mill Plain, Washington, was converted to pasture and orchards some time after the plant was first collected there in 1880. Housing developments currently occupy the site (Sheehan and Sprague 1984, Gamon 1995).

Western Oregon and Washington (and southern Vancouver Island) have a maritime climate, characterized by wet, mild winters and cool, relatively dry summers. Annual precipitation averages 800 to 1350 mm (31 to 53 in) in the Puget-Willamette Trough (Sheehan and Sprague 1984).

*Castilleja levisecta* is now known from 10 extant populations. Eight populations occur in Washington—1 population south of Olympia in Thurston County, 5 populations on Whidbey Island in Island County, 1 population on San Juan Island in San Juan County, and 1 population on Lopez Island, Island County. The Lopez Island population consisted of 4 plants in May 1996 (J. Wentworth, Washington Natural Heritage Program, Botanist, pers. comm. 1996). A population of fewer than five individuals likely is not viable (J. Gamon, Washington Natural Heritage Program, scientist, pers. comm. 1996).

In British Columbia, Canada, 2 populations exist on islands off of the southern coast of Vancouver Island (Ryan and Douglas 1994). A historic population at Beacon Hill in Victoria on Vancouver Island, British Columbia, Canada, has been surveyed annually from 1991 through 1996. Three plants were observed in 1991 but subsequent surveys have not found any plants and the site is presumed to be extirpated (Gamon 1995; G. Douglas, pers. comm. 1996).

The southernmost population of *Castilleja levisecta* occurs at the Rocky Prairie site south of Olympia, in Thurston County, Washington. The site is owned by the Washington Department of Natural Resources and is designated as a Natural Area Preserve that is managed primarily for protection of *C. levisecta* and *Aster curtus* (white-topped aster), and conservation of the remnant native grasslands of *Festuca idahoensis* (Idaho fescue) (J. Gamon, pers. comm. 1996). In 1983, the time of the last complete census, 15,000 plants were sporadically distributed throughout the 15-hectare (ha) (37-acre) site. A fire in 1985 reduced the southernmost patch of *C. levisecta*, and in 1991 the total population was estimated to be about 7,000 plants (R. Schuller, pers. comm. 1991, 1996).

Five populations are located on the north half of Whidbey Island, Island County, in Puget Sound. Three of these populations are located within the administrative boundary of the Ebey's Landing National Historic Reserve (Ebey's Landing, Fort Casey, and Bocker property), and are managed by a private landowner, Washington State Parks, and Seattle Pacific University, respectively.

The largest of the Whidbey Island populations occurs near Forbes Point at Crescent Harbor and is owned by the Department of Defense (Whidbey Island Naval Air Station). A census conducted for *Castilleja levisecta* in 1985 counted more than 10,000 flowering stems at the site (Clampitt 1985); the number of individual plants was not provided. The population was monitored in 1990, when it was estimated to be in the thousands, and again in 1991, when a reduction in density of about 25 percent was observed. A census was completed in May 1995. The population numbered 1,346 plants with 5,243 stems; approximately 50 percent of the 1985 total (Gamon 1995). The site has been mapped and measures about 20 by 60 m (66 by 197 ft) (Matt Klope, Whidbey Island Naval Air Station, pers. comm. 1996).

A second population on Whidbey Island is located at Fort Casey State Park where approximately 230 plants occur

on a 0.04-ha (0.10-acre) site (Gamon 1995). The population declined from between 500 and 1,000 plants in the early 1980's, to 120 plants in 1993 (Gamon 1993; Fayette Krause, The Nature Conservancy, *in litt.*, 1994), and currently harbors about 230 individuals (Gamon 1995). This State-owned historic site is managed as a park for recreational use (Ken Hageman, Fort Casey State Park Manager, Washington Department of Parks, pers. comm. 1994).

A third Whidbey Island population of *Castilleja levisecta* occurs on and adjacent to the Bocker property. This population consists of 3 colonies—1 colony is 60×150 m (197×492 ft) on the property, a second colony is adjacent to the property in a 4 m<sup>2</sup> (43 ft<sup>2</sup>) area, and a third colony is located near the "Admiral's" house and covers an area of 4.5×9 m (15×30 ft). In 1996, 306 individual plants existed (Wentworth, pers. comm. 1996), down from an estimated 1,200 plants in the mid-1980's (Krause, *in litt.* 1994). The property is owned by Seattle Pacific University and is used for environmental education courses (Keith Ludemann, Environmental Education Supervisor, Bocker Environmental Preserve, pers. comm. 1992), but no covenants or other restrictions on the property exist that prevent development.

A fourth Whidbey Island population occurs at Ebey's Landing in a 10–20 m ×100 m (33–66 ft×328 ft) area. This population on private land was estimated to be from 300 to 400 plants in 1984 (Sheehan and Sprague 1984) and more than 4,000 individuals in 1993 (Sheehan, *in litt.*, 1994; Gamon 1995). Differences in estimation techniques, such as counting individuals rather than flowering stems and estimates based on sampled population density are thought to contribute to the differences in population estimates between 1984 and 1993.

The fifth Whidbey Island population of *Castilleja levisecta* is located at West Beach, on a site less than 0.40 ha (1 acre) in size. The property is privately owned and is bisected by a county road. In 1991, the east side of the road supported 10 to 20 plants (M. Klope, pers. comm. 1991), whereas the entire West Beach population was estimated at approximately 200 plants in 1984 (Sheehan and Sprague 1984). A 1993 census of the site found 496 plants, while the 1995 census counted 550 plants west of the road (Gamon 1995). The apparent increase in this population may represent (1) a real increase in the population, (2) natural year-to-year fluctuation in population size, (3) differences in the way

individual plants were determined between 1993 and 1995, or (4) a more complete count was conducted in 1995. In a letter to the Island County engineer, a citizen reported that roadside maintenance activities by the county had resulted in the elimination of the plants on the east side of the road (Steve Erickson, Whidbey Environmental Action Network, *in litt.*, 1991). Subsequent field inspection by Washington Natural Heritage Program staff confirmed that the population on the east side of the road had been reduced to about five plants; however, the direct cause of the decline east of the road is unknown (Sheehan, *in litt.*, 1992; 1994).

The population on San Juan Island (San Juan County) is located on a privately owned parcel near the Mar Vista Resort at False Bay. The site is less than 1 acre in size, and supports a population of 128 plants (Gamon 1995).

The remaining population of *Castilleja levisecta* from the United States is on private land at Davis Point on Lopez Island, Island County, Washington. When first discovered in 1994, this occurrence consisted of a single plant. A census conducted in May 1996 found four plants. The viability of this population is questionable. Recently located photographic evidence from within the last 2 decades but prior to 1994, indicates the population was historically larger, with an estimated population size of approximately 100 plants. However, the area is now dominated by non-native grasses that likely have outcompeted *C. levisecta* at the site (Sheehan, *in litt.* 1994; J. Wentworth, pers. comm. 1996).

Two extant populations of *Castilleja levisecta* occur in British Columbia, Canada, on small islands near Victoria. Historically, *C. levisecta* was documented from nine sites on southeastern Vancouver Island, and on two adjacent islands. All but the two populations found on islands are extirpated or of unknown status but likely have been extirpated (Ryan and Douglas 1994). One population is located on Alpha Islet, consisting of 1,000 plants in an area of 100 m<sup>2</sup> (33 by 33 ft), and is under the management of the Ministry of Parks (Ryan and Douglas 1994). A second population, estimated at 2,560 plants, in an area of about 0.5 ha (1.2 acre), is located on the Trial Islands and is currently managed by the Ministry of Parks as an Ecological Reserve (G. Douglas, pers. comm. 1996).

*Castilleja levisecta* is threatened by habitat modification through succession of grassland to shrub and forest habitat. Potential for expansion and persistence

of refugia is low due to reduction of habitat. In addition, because the current distribution of the species has been greatly fragmented and reduced from the historic distribution, the species is vulnerable to other threats such as interspecific competition with native and alien woody species, reduced vigor and reproductive potential due to grazing by herbivores, and trampling or collecting during public recreational use of sites. Five sites are vulnerable because they are zoned for residential development or commercial use.

#### Previous Federal Action

Federal action on this species began when the Service published a Notice of Review for plants on December 15, 1980 (45 FR 82480). In this notice, *Castilleja levisecta* was included as a category 1 candidate. Category 1 candidates were formerly designated as those species for which the Service had on file substantial information on biological vulnerability and threats to support preparation of listing proposals, but for which listing proposals had not been prepared due to other higher priority listing actions. Pending completion of updated status surveys, the status was changed to category 2 in the November 28, 1983, supplement to the Notice of Review (48 FR 53640). Category 2 candidates were formerly designated as those species for which information in possession of the Service indicated that proposing to list as endangered or threatened was possibly appropriate, but for which conclusive data on biological vulnerability and threat were not currently available to support a proposed rule. *Castilleja levisecta* remained a category 2 candidate in the September 27, 1985, Notice of Review for plants (50 FR 39526). In the February 21, 1990, Notice of Review (55 FR 6184), *C. levisecta* was elevated to category 1 status, based on additional data collected by the Washington Natural Heritage Program. The species remained in category 1 in the September 30, 1993, Notice of Review for plants. On May 10, 1994, the Service published in the **Federal Register** (59 FR 24106) a proposal to list *C. levisecta* as threatened. The Service noted that the species was a proposed threatened species in the February 28, 1996, Notice of Review for Plants and Animals (61 FR 7596).

The 1994 proposal to list *Castilleja levisecta* as threatened was based primarily on information contained in status reports prepared by the Washington Natural Heritage Program and on personal communications with knowledgeable resource scientists and site managers. The comment period,

originally scheduled to close on July 11, 1994, was extended for 30 days in a July 7, 1994, **Federal Register** publication (59 FR 34784) and closed on August 11, 1994.

The processing of this final rule conforms with the Service's listing priority guidance published in the **Federal Register** on December 5, 1996 (61 FR 64475). The guidance clarifies the order in which the Service will process rulemakings following two related events—1) The lifting, on April 26, 1996, of the moratorium on final listings imposed on April 10, 1995 (Pub. L. 104-6), and 2) the restoration of funding for listing through passage of the Omnibus Budget Reconciliation law on April 26, 1996, following severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996. The guidance calls for giving highest priority to handling emergency situations (Tier 1) and second highest priority (Tier 2) to resolving the listing status of the outstanding proposed listings. This final rule falls under Tier 2. At this time there are no pending Tier 1 actions. This rule has been updated to reflect any changes in distribution, status and threats since the effective date of the listing moratorium. This additional information was not of a nature to alter the Service's decision to list the species.

#### Summary of Comments and Recommendations

In the May 10, 1994, proposed rule (59 FR 24106) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate Federal and State agencies, county governments, scientific organizations, The Nature Conservancy, and other interested parties were contacted and requested to comment. The Service published newspaper notices in The Seattle Times, The Olympian, The Whidbey News Times, The Centralia Chronicle, and The Journal of the San Juan Islands on July 13, 1994, inviting general public comment. Eleven comments, including those of one Federal agency (National Park Service), one State agency (Washington Department of Natural Resources Natural Heritage Program), one county agency, three conservation organizations, one university, two Canadian agencies, and two individuals, were received during the open comment period. All commenters supported the listing of *Castilleja levisecta* under the Endangered Species Act.

Several commenters provided information on the status of various populations of *Castilleja levisecta* that updated the information presented in the proposed rule. That information has been incorporated into the Background and Summary of Factors sections of this final rule. The primary issue of concern raised by commenters is the Service's intent to list this species as threatened rather than endangered. The five commenters that raised this issue all believe that endangered designation more accurately reflects the status of *C. levisecta*. Several arguments were expressed to support the contention that endangered status is warranted for *Castilleja levisecta*. Commenters stated that few populations of this species can be considered secure, even though several sites are designated as preserves or parks; the 2 populations at Fort Casey State Park and the Bocker property have documented declines; 5 privately owned sites (False Bay, Davis Point, Bocker property, Ebey's Landing, and West Beach) have the potential for development; populations in British Columbia, Canada, should not be assumed to be secure because the Service has little if any influence over how these populations are managed; the number of populations is down from at least 30 to only 10; and sites with fewer than 10 to 30 plants likely are not viable populations. The Service responds to the issue of preferred status as follows.

The Service considered several factors in proposing threatened status for *Castilleja levisecta*, including the number of populations, number of plants, rate of decline, distribution of the populations, current management of populations, and availability of techniques for reversing the decline. *Castilleja levisecta* was historically reported from more than 30 sites in Washington, Oregon, and British Columbia; today 10 sites are extant. These 10 sites are distributed in 3 counties in Washington and two islands in British Columbia, Canada. Five of the 10 extant populations contain 1,000 or more plants. Though 2 populations have declined in number by over 50 percent in the last decade, 2 populations contain higher numbers of plants than reported in the proposed rule. Active management to benefit *C. levisecta* is occurring at 4 sites (Rocky Prairie, Fort Casey, Forbes Point and West Beach). The Service agrees that designation of sites as preserves or parks does not in and of itself guarantee the reduction or removal of threats to a species such as *C. levisecta*. However, these designations do afford some level of protection against certain threats such

as destruction of habitat, and can provide greater potential for implementing conservation measures to benefit the plant. With half the populations containing significant numbers of plants (i.e., 1,000 or greater), and the distribution spread across several counties in the United States and into southwestern Canada, the Service believes that threatened status is appropriate for *C. levisecta*.

#### Peer Review

The Service solicited the expert opinions of appropriate and independent specialists regarding pertinent scientific or commercial data relating to the biological and ecological information for *Castilleja levisecta*. Comments provided by John Gamon and Jane Wentworth, botanists with the Washington Department of Natural Resources' Natural Heritage Program were incorporated into the final rule. Mr. Gamon and Ms. Wentworth provided information supporting the position of the Service that *C. levisecta* was threatened by several factors at each occurrence of the species found in western Washington. Dr. George Douglas, Director, Conservation Data Center, Victoria, British Columbia, provided information supporting the position of the Service that *C. levisecta* was facing several threats at the two occurrences found in British Columbia, Canada.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Castilleja levisecta* should be classified as a threatened species. Procedures found at section 4 of the Endangered Species Act (16 U.S.C. 1533) and regulations implementing the listing provisions of the Act (50 CFR part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *C. levisecta* Greenman (golden paintbrush) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Historic loss of prairie and grassland habitat in the Puget Trough has reduced the range of *Castilleja levisecta*, and habitat loss continues to be the primary threat to remaining populations. Currently, encroachment by native and alien woody species, as discussed in more detail under Factor E, is the primary cause of this habitat modification.

Development for residential or commercial use is a potential threat at five of the privately owned sites, False Bay, Davis Point, Bocker property, Ebey's Landing and West Beach. The three sites on Whidbey Island (Bocker property, Ebey's Landing and West Beach) are zoned for residential development (County Planning, Island Co. pers. comm. 1996). The site on San Juan Island (False Bay) is designated rural (Planning Department, San Juan Island County, pers. comm. 1996), indicating that the area is dominated by agricultural, forestry and recreational uses and can be used for the extraction of sand, gravel, and mineral deposits. This designation also allows residential development. The Davis Point population on Lopez Island is "designated conservancy" (Planning Department, San Juan Island County, pers. comm., 1996), which allows the construction of homes and the management of resources on a sustained-yield basis. Although no plans for development have been initiated at these sites, the habitat for these populations remains vulnerable to threats from adjacent areas that receive high human use (see Factor E for a more detailed discussion), and to the potential for development on these privately owned sites.

In recent history (since 1850), the suppression of fire has played a critical role in the reduction of grassland habitat in the Puget Trough (Krukeberg 1991) and, therefore, in the reduction in numbers and sizes of *Castilleja levisecta* populations. In contrast, a large, high intensity fire at any of the remaining sites where *C. levisecta* occurs may eliminate populations, although the Service is unaware of permanent extirpations of this species due to fire.

Loss of suitable habitat from either encroachment of woody species or development in the areas surrounding the disjunct populations prevents expansion of the species and affords no refugia in the case of catastrophic events that affect existing populations. Because the grassland habitat in the areas surrounding the existing populations has been lost, it is doubtful that the populations would expand naturally. Thus, the continued existence of *Castilleja levisecta* is threatened by the absence of available habitat for recruitment and colonization.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* *Castilleja levisecta* has no known commercial use. Because of its showy golden-yellow bracts, *C. levisecta* is vulnerable to picking and collection at public sites. Fort Casey State Park, Bocker property, and Forbes Point are

sites with high levels of public use where collection and/or trampling are threats (see Factor E). For example, Fort Casey State Park receives a high amount of recreational use, and the potential for overcollection is considered a genuine threat. Visitor use has increased within the last decade, and park users have been observed picking the flowering plant (K. Hageman, pers. comm. 1994). Once numbering over 500 plants (Hageman, pers. comm. 1994; Krause, *in litt.* 1994), the Fort Casey State Park population had declined to approximately 230 individuals by 1995 (J. Gamon 1995; Krause, *in litt.* 1994). *Castilleja levisecta* may become vulnerable to collection by concerned citizens, amateur botanists and the general public as a result of increased publicity following publication of the final rule.

*C. Disease or predation.* Disease is not known to be a factor threatening *Castilleja levisecta*. Populations may have been reduced from historical levels by grazing by livestock and rabbits (Sheehan and Sprague 1984, Gamon 1995, J. Wentworth, pers. comm. 1996). Grazing of the flowering stems of *C. levisecta*, probably by rabbits and/or deer, has been observed at the Bocker property. Though the effect is unknown, presumably grazing affects seed number and reproductive viability (K. Ludemann, pers. comm. 1991; J. Wentworth, pers. comm. 1996)). Livestock and exotic feral rabbits also graze the False Bay population (Sheehan and Sprague 1984). In 1990 and 1991 at the Forbes Point site, Klope (pers. comm. 1996) observed heavy predation on herbaceous material and seeds by rodents. Grazing also was noted at Forbes Point in 1984 and 1985 (Clampitt 1985), which may be reducing the reproductive potential at that site. At Fort Casey State Park, all flowering stems of a small colony of *C. levisecta* were eaten by rabbits during the spring of 1996, thus eliminating seed set and reproduction for the current year (J. Wentworth, pers. comm. 1996).

The Rocky Prairie Natural Area Preserve population of *Castilleja levisecta* has historically harbored a population of the Whulge checkerspot butterfly (*Euphydryas editha taylori*), a State sensitive species that is a potential seed predator. Because *C. levisecta* is not a specific host and no individual butterflies were observed at the site in 1991, the threat is likely low (M. Sheehan, pers. comm. 1991; F. Krause, The Nature Conservancy, pers. comm. 1996). Insect larvae have been observed feeding on inflorescences (flowering parts) of *C. levisecta* (Gamon 1995). Although several species of caterpillar

were known to prey on *C. levisecta* (Sheehan and Sprague 1984, Evans *et al.* 1984), they are not believed to currently pose a threat (J. Wentworth, pers. comm. 1996).

Predation (grazing and seed predation) by native species is one of the natural pressures historically faced by *Castilleja levisecta*, but populations that have been reduced or stressed due to other factors are more vulnerable to decline and are less able to rebound after periods of heavy predation.

*D. The inadequacy of existing regulatory mechanisms.* Currently, no regulatory mechanism provides for the protection of *Castilleja levisecta* or its habitat. *Castilleja levisecta* is listed as endangered by the Washington Natural Heritage Program (Washington Natural Heritage Program 1994). However, no State Endangered Species Act exists for plants in Washington and no legal protection is provided by the Washington Natural Heritage Program listing classification of endangered. The province of British Columbia uses The Nature Conservancy's rating system and has designated *C. levisecta* as a category G1S1 species (critically imperilled due to extreme rarity or because of vulnerability to extinction, and with typically less than 5 occurrences) (G. Douglas, pers. comm. 1996). Four sites are included among the Natural Heritage Program's Registry of Natural Areas (Laura Smith, Associate Director, The Nature Conservancy, Washington State Office, pers. comm. 1996). All of these designations are important because they recognize the sensitive status of the species and encourage private land owners and management agencies to consider the species in management plans; however, they provide no legal protection. Therefore, changing land management priorities or inadequate funding for protection could leave the species vulnerable at several of the sites.

The Rocky Prairie Natural Area Preserve population has the highest level of protection of the 10 sites. This State-owned site has been actively managed to eliminate alien species, including the use of prescribed burning and hand removal of invasive plants. Seven acres of the encroaching Douglas-fir (*Pseudotsuga menziesii*) were directionally felled and removed from Rocky Prairie during the winter of 1996. This effort was accomplished through a cooperative agreement between the Service's Washington State Ecosystems Conservation Program and the Washington Department of Natural Resource's Natural Heritage Program. Despite these efforts to restore prairie composition and structure by reducing shade onto the site and improve the

conditions of the native prairie habitat, continued funding of restoration cannot be assured. Additionally, efforts by the Washington Department of Natural Resources to eliminate the invasive *Cytisus scoparius* (Scotch broom) and *Hieracium pilosella* (mouse-ear hawkweed) at this site are voluntary and not statutorily required. This population continues to face threats from invasion of woody species.

Another publicly-owned population occurs in Fort Casey State Park. Park managers have implemented vegetation management measures (mowing, clipping and removing vegetation) to improve the conditions of the grassland habitat, and protective measures (fencing) to restrict trampling the *Castilleja levisecta* plants. However, the plant continues to be vulnerable to encroaching vegetation, picking (see Factor B), trampling, grazing and seed predation.

The Forbes Point population occurs on Federal land at Whidbey Island Naval Air Station. The Department of Defense is participating in the Washington Registry of Natural Areas Program. A Navy staff biologist has undertaken measures to evaluate the status of the population. Efforts have also been made to eradicate some invasive non-native species. A fence has been constructed to restrict people trampling or picking the plants and to keep rabbits from browsing *Castilleja levisecta*; however, rodents still enter the fenced area and consume seed (M. Klope, pers. comm. 1996). Signs have been erected designating the site as a research area, but the Navy does not prohibit public use of this site, which receives occasional foot traffic associated with a nearby popular beach (M. Klope, pers. comm. 1996).

The populations of *Castilleja levisecta* at Ebey's Landing and the Bocker property are also listed on the Washington Registry of Natural Areas. Ebey's Landing is on private property within the designated boundary of Ebey's Landing National Historic Reserve. The Bocker property, owned by Seattle Pacific University, is currently managed as a natural area used for education purposes with no active management to retain grassland habitat. The Bocker property is also located within the designated boundary of Ebey's Landing National Historic Reserve. Although *C. levisecta* is considered in the current management of the Historic Reserve, management is not specifically directed toward the long-term conservation of the plant. As a result, the population is threatened by predation and invasion of native Douglas-fir and alien woody plants.

Ebey's Landing, Bocker property, West Beach, Davis Point, and False Bay populations of the species are on private property and receive no legal protection.

The Ebey's Landing National Historic Reserve was established by the combined efforts of the local land owners, the National Park Service, and the U.S. Congress to give recognition to the local land owners for maintaining their dwellings and landscapes in a specific historic fashion. The Historic Reserve designation serves as a form of covenants that restrict the type of landscaping and architectural design used for the maintenance or remodeling of any existing structures or the construction of new structures within Ebey's Landing National Historic Reserve. The National Historic Reserve designation does not prohibit development or extraction of natural resources and provides no protection for biological resources. The National Park Service's jurisdiction over Ebey's Landing National Historic Reserve is only advisory in nature and is limited to providing technical assistance to State and local governments and local land owners in the management, protection, and interpretation of the Historic Reserve (Gretchen Luxenberg, National Park Service, pers. comm. 1997; Curt Soper, Director of Agency Relations, The Nature Conservancy, pers. comm. 1997; Stacey Tucker, Island County Planning and Community Development Department, pers. comm. 1997).

The *Castilleja levisecta* populations in Canada receive no regulatory protection. Legislation to protect endangered species has been proposed to the British Columbia government, but currently no Federal or Provincial law protects sensitive species. The Trial Islands, offshore from the city of Victoria, are designated as an Ecological Reserve by the British Columbia Ministry of Parks. The small population at Alpha Islet also is located within a designated Ecological Reserve. Ecological Reserves are protected areas that generally require permits for entry and do not allow consumptive activities, like plant collection or other activities destructive to resources (L. Ramsey, Conservation Data Center, Ministry of Environment, Lands and Parks, British Columbia, pers. comm. 1997). However, the Ecological Reserve designation does not require specific management recommendations for the plant. Because this designation is an administrative one, it could potentially be reversed by administrative decision, and the site could be used for other purposes (G. Douglas, pers. comm. 1996).

In summary, most populations occur in areas designated as reserves or parks; 4 sites receive active management to benefit the species and help prevent habitat destruction. However, habitat management for *Castilleja levisecta* is not assured nor coordinated among the various population sites.

*E. Other natural or manmade factors affecting its continued existence.* Grassland habitat has historically been maintained by periodic fires that prevented encroachment of woody plant species (Sheehan and Sprague 1984; J. Agee, pers. comm. 1996). Fire suppression in recent years has led to invasion of grasslands by native species such as Douglas-fir, *Rosa* sp. (wild rose), and *Berberis aquifolium* (barberry). Encroachment by alien species such as *Cytisus scoparius* and *Hieracium pilosella* also occurs. These species are invasive and can dominate some areas and compete with *Castilleja levisecta* for space, light, and nutrients.

Interspecific competition is a serious threat to the continued existence of *Castilleja levisecta*. Loss of grassland habitat due, in part, to invasion of woody species threatens the plant at the Rocky Prairie Natural Area Preserve (J. Wentworth, pers. comm. 1996; Krause, *in litt.* 1994; Sheehan, *in litt.* 1994), Bocker property (K. Ludemann, pers. comm. 1991; Krause, *in litt.* 1994; Sheehan, *in litt.* 1994; J. Wentworth, pers. comm. 1996), Ebey's Landing (Jim Larson, Chief, Division of Natural Resources, National Park Service, pers. comm. 1991; J. Gamon pers. comm. 1996), West Beach (M. Mills, pers. comm. 1996; Krause, *in litt.* 1994; Sheehan, *in litt.* 1994), and Forbes Point (M. Klope, pers. comm. 1996; Krause, *in litt.* 1994; Sheehan, *in litt.* 1994) sites. *Castilleja levisecta* cannot survive under a closed canopy, such as that formed by Douglas-fir, wild rose, barberry and the alien *Cytisus scoparius*. Those species may also outcompete *C. levisecta* for root space and nutrients (Sheehan and Sprague 1984). The species appears to be unable to compete successfully against species that tend toward monoculture (J. Gamon, pers. comm. 1996).

Four populations of *Castilleja levisecta* on Whidbey Island (Fort Casey State Park, Forbes Point, Bocker property, and West Beach) are also threatened with tree and/or shrub succession. If left unchecked, encroachment of wild rose and *Rubus* sp. (blackberry) will eliminate the population at the West Beach site (M. Mills, pers. comm. 1996). Clampitt (1985) noted the encroachment of several aggressive plants into *C. levisecta* habitat at Forbes Point, like

blackberry, *Vicia* sp. (vetch), and *Trifolium* sp. (clover). Invasive shrubs and Douglas-fir, which shades out *C. levisecta*, are competing with *C. levisecta* at the Bocker property site. Numbering over 1,200 individuals in 1984, the population had declined to 295 individuals by 1995 (J. Gamon 1995).

While fire may improve the grassland habitat for *Castilleja levisecta*, the impacts associated with fire prevention may be a threat. An example of this took place August 9–11, 1996, in Thurston County, Washington. A fire was ignited from the spark of a train that runs adjacent to Rocky Prairie. The fire burned grasses and shrubs for greater than 10 miles of the railroad right-of-way and emergency vehicles were activated to suppress the fire. To access the fire adjacent to Rocky Prairie, the fence surrounding Rocky Prairie Natural Area Preserve was cut at two locations to allow access of fire prevention vehicles. Vehicles ran directly over a portion of the *C. levisecta* population, breaking and compacting individual plants. Damage to plants and habitat are often the result of the fire suppression activities associated with wildfires (James Agee, pers. comm. 1996).

Trampling by recreationists may threaten the plant at Fort Casey State Park on Whidbey Island where paths had been worn into the soil and pass directly through a *Castilleja levisecta* population. A decorative fence erected in 1995 partially restricts foot traffic through the *C. levisecta* population and trampling by the public at this site has been reduced (J. Gamon, pers. comm. 1996), although invasion by wild rose remains a threat. The few plants that formerly occurred in Beacon Hill Municipal Park in Victoria were located in a heavily used area of the park. Trampling by the public may have contributed to the species extirpation at Beacon Hill (G. Douglas, pers. comm. 1996).

None of the private ownerships have been fenced or are otherwise protected. The West Beach occurrence of *Castilleja levisecta* is surrounded by beach front homes and foot traffic passes through the population to access the beach. Adjacent property owners maintain their lawns with fertilizers and herbicides. Aerial drift from these chemical treatments that come in contact with *C. levisecta* is a potential threat. Across Fort Casey Road from several new homes, the population on the Bocker property is threatened by foot traffic. At False Bay, several foot paths have been established through the population and individual plants have been trampled. The only access to the

beach from the resort at False Bay is through the population. At Davis Point, *C. levisecta* is found on a small patch within a 30-acre overgrown lot; pasture grasses and wild rose are abundant and threaten to overtake *C. levisecta*. This site has not been managed and the *C. levisecta* population has declined from about 100 plants prior to 1994 to 4 individuals in 1996 (Wentworth 1996). The Ebey's Landing occurrence is adjacent to a road on a steep hillslope overlooking the ocean. Erosion and slumping have occurred on the slope and potentially threaten the species at this location. Ebey's Landing is a recreation area with foot paths leading to the plants and trampling has been documented (Jane Wentworth, pers. comm. 1997).

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 list *Castilleja levisecta* as threatened. Threats to *C. levisecta* include habitat modification through succession of prairie and grassland habitats to shrub and forest lands; development of property for commercial, residential and agricultural use; low potential for expansion and refugia due to constriction of habitat; recreational picking; and herbivory.

Several of the sites are designated as preserves or afforded some level of protection from certain threats through current management efforts, and 50 percent of the populations contain 1,000 or more individuals. The Service, therefore, believes the species is not currently in danger of extinction. However, because the remaining populations are threatened by the chronic factors described above, like successional modification and potential development of its habitat, *Castilleja levisecta* is likely to become endangered within the foreseeable future throughout all or a significant portion of its range. The species, therefore, fits the definition of threatened as defined by the Act. Critical habitat is not being proposed for this species for reasons discussed in the Critical Habitat section of this rule.

#### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat concurrently with determining a species to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species. Such a determination would provide no additional protection to *Castilleja levisecta* and could increase the degree of threat to the species. As discussed

above under Factor B in the Summary of Factors Affecting the Species, *C. levisecta* is vulnerable to collecting. Publication of precise maps and critical habitat descriptions in the **Federal Register** would be likely to increase the degree of threats from collecting and vandalism, and would increase enforcement problems.

Critical habitat protections apply only to Federal actions and, therefore, critical habitat provides no protection for populations occurring on State or private land absent a Federal nexus. In addition, even where such a nexus occurs, designation of critical habitat generally provides no additional protection beyond that provided by listing. In particular, even though three populations of *Castilleja levisecta* located within the administrative boundary of Ebey's Landing National Historic Reserve (the first population is on private property, the second population is on State park land, and the third population is owned by Seattle Pacific University), the enabling legislation (National Parks and Recreation Act, 1978, P.L. 95-625, section 508) that established Ebey's Landing National Historic Reserve does not provide the National Park Service the authority to manage biological resources on the private or State property within this National Historic Reserve. The National Park Service's jurisdiction over Ebey's Landing National Historic Reserve is only advisory in nature (G. Luxenberg, National Park Service, pers. comm. 1997).

Critical habitat receives consideration under section 7 of the Act with regard to actions carried out, authorized, or funded by a Federal agency. As such, designation of critical habitat may affect non-Federal lands only where such a Federal nexus exists. Federal agencies must insure that their actions do not result in destruction or adverse modification of critical habitat. Aside from this added consideration under section 7, the Act does not provide any additional protection to lands designated as critical habitat. Designating critical habitat does not create a management plan for the areas where the listed species occurs; does not establish numerical population goals or prescribe specific management actions (inside or outside of critical habitat); and does not have a direct effect on areas not designated as critical habitat.

In addition, all involved parties and landowners have been notified of the importance of the species' habitat. Protection of its habitat can be addressed through the recovery and

section 7 consultation processes. Therefore, the Service finds that designation of critical habitat for *Castilleja levisecta* is not prudent at this time, because a designation would increase the threat posed by taking (i.e., vandalism, collection) and other human activities, and because the designation of critical habitat would not be beneficial to the species.

#### 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 activities. Recognition through listing can encourage and result in conservation actions by Federal, State, and private agencies, groups, and individuals. Recovery efforts encourage communication and cooperative efforts among various land managers and owners. The Act provides for possible land acquisition and cooperation with the State and requires that recovery actions be carried out for all listed species. Funding may be available through section 6 of the Act for the State to conduct recovery activities. This may assist in protection and recovery efforts at Rocky Prairie Natural Area Preserve and Fort Casey State Park, sites owned by the State of Washington. The protection required by Federal agencies and prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species. If a Federal action may affect a listed species, regardless of whether the activity occurs on Federal or non-Federal lands, the responsible Federal agency must enter into formal consultation with the Service. The population of *Castilleja levisecta* at Forbes Point occurs on Federal land at Whidbey Island Naval Air Station. Federal actions there would be subject to section 7 requirements. The National Park Service administers Ebey's Landing National Historic Reserve, where three populations of *C. levisecta* are located on private lands. The National Park Service's jurisdiction over the Reserve is advisory in nature.



However, in the event the National Park Service funded or carried out any activities that may affect the species, it would be required to consult with the Service. In addition, sections 2(c)(1) and 7(a)(1) of the Act require Federal agencies to utilize their authorities in furtherance of the purposes of the Act to carry out conservation programs for endangered and threatened species.

The Act and implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general prohibitions and exceptions that apply to all threatened plants. With respect to *Castilleja levisecta*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, make it illegal any for any person subject to the jurisdiction of the United States to import or export endangered or threatened plants; transport any such plant in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale such species in interstate or foreign commerce; remove and reduce such species to possession from areas under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62, 17.63 and 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered and threatened plant species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued because the species is not common in cultivation or in the wild.

The proposal incorrectly stated that the Act prohibits any person from removing, cutting, digging up, damaging, or destroying any endangered or threatened plant on areas that are not under Federal jurisdiction in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law. This prohibition under section 9(a)(2)(B) currently applies only to plant species listed as endangered. Section 4(d) of the Act allows for the provision of such protection to threatened plants through regulation. This protection may apply to threatened plants including *Castilleja levisecta* in the future if regulations are promulgated.

It is the policy of the Service (59 FR 34272) to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. Such information is intended to clarify the potential

impacts of a species' listing on proposed and ongoing activities within the range of the species. In the case of *Castilleja levisecta*, unauthorized collection at Forbes Point would constitute a violation of section 9 because this site is under Federal jurisdiction; collection occurring under a Federal threatened species permit for scientific or recovery purposes would not result in a violation of section 9. Collection or destruction of *C. levisecta* on private or other non-Federal lands are not a violation of section 9. However, when a project occurring on non-Federal lands requires Federal authorization, funding or permitting and the project may affect listed species, including listed plants, the action agency must consult with the Service under section 7 of the Act to ensure that the Federal action (e.g., issuance of a Federal permit) will not jeopardize the survival of the species. Absent a Federal action, the Act does not provide protection to threatened plants on private lands. Questions regarding whether specific activities will constitute a violation of section 9 should be directed to the Supervisor, Western Washington Office, North Pacific Coast Ecoregion, U.S. Fish and Wildlife Service, 510 Desmond Drive, S.E., Suite 101, Lacey, Washington 98503-1273, telephone 360/753-9440.

Requests for copies of the regulations on plants and inquiries regarding them, including permits, may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Endangered Species Permits, 911 NE 11th Avenue, Portland, Oregon 97232-4181, telephone 503/231-2063.

#### Required Determinations

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

The Service has examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no information collection requirements.

#### References Cited

- Agee, J.K. 1993. Fire Ecology of Pacific Northwest Forests. Island Press. 493 pp.  
Clampitt, C. 1985. Report: Census of *Castilleja levisecta* population at Forbes Point. Prepared for L. Smith, The Nature Conservancy, Washington Field Office, Seattle, Washington. 4pp.

- Evans, S., R. Schuller, and E. Augenstein. 1984. A report on *Castilleja levisecta* Greenman at Rocky Prairie, Thurston County, Washington. Unpubl. Report to The Nature Conservancy, Washington Field Office, Seattle, Washington. 56pp.  
Gamon, J. G. 1995. Report on the status of *Castilleja levisecta* (Greenman). Washington Natural Heritage Program, Department of Natural Resources, Olympia, Washington. 55pp.  
Gamon, J. 1993. *Castilleja levisecta* Within Ebey's Landing National Historic Reserve: A report on the current status of the species, including preliminary management recommendations. Washington Natural Heritage Program, Department of Natural Resources, Olympia, Washington. 7pp.  
Goodman, D. 1987. The demography of chance extinction. Pages 11-34 in M.E. Soule', editor. Viable populations for conservation. Cambridge University Press, Cambridge, England.  
Greenman, J.M. 1898. Some new and other noteworthy plants of the Pacific Northwest. Bot. Gaz. 25:261-269.  
Heckard, L.R. 1962. Root parasitism in *Castilleja*. Bot. Gaz. 124:21-29.  
Hitchcock, C.L., and A. Cronquist. 1973. Flora of the Pacific Northwest. Univ. of Washington Press, Seattle.  
Kruckeberg, A.R. 1991. The Natural History of the Puget Sound Country. University of Washington Press, Seattle, Washington.  
Ryan, M. and G. W. Douglas. 1994. Status report on the golden paintbrush *Castilleja levisecta* Greenman. Unpublished, draft report prepared by the British Columbia Ministry of Environment, Lands and Parks. Victoria, B.C.  
Sheehan, M., and N. Sprague. 1984. Report on the status of *Castilleja levisecta*. Unpubl. Report submitted to the U.S. Fish and Wildlife Service, Portland, Oregon. 82pp.  
Washington Natural Heritage Program. 1994. Endangered, threatened and sensitive vascular plants of Washington. Department of Natural Resources, Olympia. Second printing. 52pp.  
Wentworth, Jane. 1994. The demography and population dynamics of *Castilleja levisecta*, an endangered perennial. Unpublished Master's thesis. University of Washington. 53pp.  
Wentworth, J. 1996. Conservation recommendations for *Castilleja levisecta* in Washington. Washington Natural Heritage Program, Washington Department of Natural Resources, Olympia, Washington.

#### Authors:

The authors of this final rule are Leslie Propp and Ted Thomas, 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.

**Regulation Promulgation**

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal

Regulations, is amended 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.

2. Section 17.12(h) is amended by adding the following, in alphabetical

order under Flowering Plants, to the List of Endangered and Threatened Plants, to read as follows:

**§ 17.12 Endangered and threatened plants.**

\* \* \* \* \*

(h) \* \* \*

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
* <i>Castilleja levisecta</i> ...	* Golden paintbrush ..	* U.S.A. (OR, WA), Canada (B.C.).	* Scrophulariaceae ....	* T	* 615	* NA	* NA
*	*	*	*	*	*	*	*

Dated: May 16, 1997.  
**Jay L. Gerst,**  
 Acting Director, U.S. Fish and Wildlife Service.  
 [FR Doc. 97–15245 Filed 6–10–97; 8:45 am]  
 BILLING CODE 4310–55–P

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**RIN 1018–AC19**

**Endangered and Threatened Wildlife and Plants; Threatened Status for the Alaska Breeding Population of the Steller's Eider**

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

**ACTION:** Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) determines the Alaska breeding population of the Steller's eider (*Polysticta stelleri*) to be threatened pursuant to the Endangered Species Act of 1973, as amended. This determination is based upon a substantial decrease in the species' nesting range in Alaska, a reduction in the number of Steller's eiders nesting in Alaska, and the resulting increased vulnerability of the remaining breeding population to extirpation. This rule implements the Federal protection and recovery provisions of the Act for this species. Critical habitat is not being designated at this time.

**EFFECTIVE DATE:** July 11, 1997.

**ADDRESSES:** The complete file for this rule is available for inspection, by

appointment, during normal business hours at the Ecological Services Fairbanks Field Office, U.S. Fish and Wildlife Service, 101 12th Avenue, Box 19, Fairbanks, Alaska, 99701, telephone (907) 456–0441 or facsimile (907) 456–0208.

**FOR FURTHER INFORMATION CONTACT:** Ted Swem, Wildlife Biologist, at the above address (telephone (907) 456–0441).

**SUPPLEMENTARY INFORMATION:**

**Background**

The Steller's eider is the smallest of four eider species. It was first described by Pallas in 1769 as *Anas stelleri* and was subsequently grouped with the other eiders in the genus *Somateria*. The Steller's eider is now recognized as a monotypic genus, *Polysticta stelleri* (American Ornithologists' Union 1983).

The adult male Steller's eider has a white head with a greenish tuft and a small black eye patch, a black back, white shoulders, and a chestnut breast and belly with a black spot on each side. Adult females and juveniles are mottled dark brown. Both adult sexes have a blue wing speculum with a white border. The Inupiat Eskimo name for this eider is Iginikkauktuk and Yupik Eskimos call them Anarnissaguq. The Siberian Yupik name used by residents of St. Lawrence Island is Aglekesegak.

Steller's eiders are sea ducks that spend the majority of the year in shallow, near-shore marine waters where they feed by diving and dabbling for molluscs and crustaceans (Petersen 1980). Principal foods in marine areas include bivalves, crustaceans, polychaete worms, and molluscs

(Petersen 1980, Troy and Johnson 1987, Metzner 1993).

During the breeding season, Steller's eiders move inland in coastal areas, where they nest adjacent to shallow ponds or within drained lake basins (King and Dau 1981, Flint *et al.* 1984, Quakenbush and Cochrane 1993). In inland areas, their diet includes aquatic insects (primarily chironomid larvae), plant materials, crustaceans, and mollusks (Cottam 1939, Quakenbush and Cochrane 1993).

The current breeding distribution of the Steller's eider encompasses the arctic coastal regions of northern Alaska from Wainwright to Prudhoe Bay up to 90 kilometers (km) (54 miles) inland (King and Brackney 1993), and Russia from the Chukotsk Peninsula west to the Taimyr, Gydan and Yamal peninsulas (American Ornithologists' Union 1983, Yesou and Lappo 1992). Actual numbers nesting in Alaska and Russia are unknown but the majority of Steller's eiders nest in arctic Russia (Palmer 1976, Bellrose 1980).

After the nesting season, Steller's eiders return to marine habitats where they molt (Jones 1965; Petersen 1980, 1981). Concentrations of molting Steller's eiders have been noted in Russia (Gerasimov in Kistchinski 1973), near St. Lawrence Island in the Bering Sea (Fay 1961), and along the northern shore of the Alaska Peninsula (Jones 1965; Petersen 1980, 1981). In some years, groups of tens of thousands may molt in the bays and lagoons along the Alaska Peninsula, in particular Nelson Lagoon and Izembek Lagoon (Petersen 1980). In other years, many of the birds complete their molt before arriving on the Peninsula (Jones 1965). Band