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 are particularly sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Chlorogalum purpureum*;

(2) The location of any additional populations of the species and the reasons why any habitat should or should not be determined to be critical habitat pursuant to section 4 of the Act;

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

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

A final determination of whether to list this species will take into consideration the comments and any additional information received by the Service. Such communications may lead to a final decision-making document 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 in the **Federal Register**. Such requests must be made in writing and be addressed to the Field Supervisor (see **ADDRESSES** section).

National Environmental Policy Act

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 of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

This proposed rule does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

References Cited

A complete list of all references cited herein is available upon request from the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author: The primary author of this proposal is Diane Steeck, Ventura Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

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]

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. 4201–4205; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
*	*	*	*	*	*		*
FLOWERING PLANTS							
*	*	*	*	*	*		*
Chlorogalum purpureum.	Purple amole	U.S.A. (CA)	Liliaceae—Lily	T	.....	NA	NA
*	*	*	*	*	*		*

Dated: March 17, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 98–8050 Filed 3–27–98; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE81

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Four Plants from South Central Coastal California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to list *Cirsium loncholepis* (La Graciosa thistle), *Eriodictyon capitatum* (Lompoc yerba santa), *Hemizonia increscens* ssp. *villosa* (Gaviota tarplant), and *Lupinus nipomensis* (Nipomo Mesa lupine) as endangered, pursuant to the Endangered Species Act of 1973, as amended (Act). These plants are in danger of extinction because their habitats have been significantly reduced by residential, commercial, and oil and gas development. Their remaining habitats have been adversely affected by development, military activities, alteration of natural fire cycles and the invasion of alien plant species. The limited distribution and small population sizes of these four taxa also make them more vulnerable to extinction from naturally occurring events. Existing regulations do not

provide adequate protection to prevent further losses from ongoing activities. This proposal, if made final, would extend the Act's protection to these plants.

DATES: Comments from all interested parties must be received by May 29, 1998. Public hearing requests must be received by May 14, 1998.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Carl Benz, Assistant Field Supervisor, Listing and Recovery, at the above address (telephone: 805/644–1766; facsimile 805/644–3958).

SUPPLEMENTARY INFORMATION:

Background

Cirsium loncholepis (La Graciosa thistle), *Eriodictyon capitatum* (Lompoc yerba santa), *Hemizonia increscens* ssp. *villosa* (Gaviota tarplant), and *Lupinus nipomensis* (Nipomo Mesa lupine) occur along the south central California coast. They are restricted to a narrow area in western and northern Santa Barbara County and southern San Luis Obispo County.

These taxa occur in sensitive, declining or altered habitats including central dune scrub, central maritime chaparral, valley needlegrass grassland, coastal freshwater wetlands, and southern bishop pine forest (Holland 1986, Schoenherr 1992). Two of these habitats, central dune scrub and coastal freshwater wetlands, are notable for their geological and biological value. The largest coastal dune system in California is located in southern San Luis Obispo County near Guadalupe, where approximately 47 square kilometers (sq km) (18 sq miles (mi)) of active dunes create a series of back dune lakes. The Department of the Interior added the Guadalupe Dune region to the National Natural Landmark system in 1980, recognizing the biological and physical diversity of the area (Schoenherr 1992). Two of the taxa proposed for listing in this rule (*Lupinus nipomensis* and *Cirsium loncholepis)* are restricted to these dunes. Coastal dune habitats are highly disturbed and all remnants have been invaded by alien plant species. Invasive weeds such as *Ehrharta calycina* (veldt grass), *Ammophila arenaria* (European beach grass), *Carpobrotus edulis* (iceplant), and *Mesembryanthemum crystalinum* (crystalline iceplant) are serious threats to the natural ecological processes of coastal sandy habitats and to the viability of these proposed taxa (Smith 1976, Zedler and Scheid 1988, Schoenherr 1992).

Inland from the active dunes, there are remnants of prehistoric uplifted dunes that have formed a weakly cemented sandstone that has weathered to produce a sandy, extremely well drained, and nearly infertile soil (Davis *et al.* 1988). This substrate has a limited distribution, occurring on the following mesas in the area: Nipomo Mesa, Casmalia Hills, San Antonio Terrace, Burton Mesa, Lompoc Terrace and Purisima Hills. The habitat that occurs on the sand hills has been called the maritime chaparral and has been the focus of several studies (Ferren *et al.* 1984, Davis *et al.* 1988, Philbrick and Odion 1988, Davis *et al.* 1989, Odion *et al.* 1992). Two of the populations of *Eriodictyon capitatum* occur in the maritime chaparral. Seven local endemic plant species that occur in this habitat and at least 16 other uncommon plant species are components of a plant community known as the central coast maritime chaparral. This community type is an exceptional biological resource due to the concentration of rare plants found within it; however most of it has been converted to other land uses or is degraded by weed invasion and habitat fragmentation (Davis *et al.* 1988, Odion *et al.* 1992). Central coast maritime chaparral is considered threatened and sensitive by the California Department of Fish and Game's (CDFG) Natural Heritage Division (Holland 1986). The southern bishop pine forest is scattered in the Purisima Hills and occurs largely as a component of the central coast maritime chaparral (Holland 1986).

Cirsium loncholepis (La Graciosa thistle) was first collected by Eastwood in 1906 near the village site of La Graciosa (razed in 1877) in San Luis Obispo County. The original description was published in 1917 by Petrak, who wrote a monograph on the genus *Cirsium* (Abrams and Ferris 1960). *Cirsium loncholepis* is a short-lived (1–2 years), spreading, mound-like or erect and often fleshy, spiny member of the sunflower family (Asteraceae). Plants are from 1 to 10 decimeters (dm) (4 to 40 inches (in)) in height, with one to several stems. The leaves are wavy-margined. The lower leaves are 10 to 30 centimeters (cm) (4 to 12 in) long with spiny petioles and usually deeply lobed with secondary lobes or teeth. The leaf base of the middle and upper leaves forms short, spiny wings along the petiole. The flower heads are in tight clusters at the tips of the stems. Flowering heads are 2 to 4 cm (0.8 to 1.6 in) wide. The corollas are 25 to 30 mm (1 to 1.2 in) long and more or less white with a purplish tube containing purple anthers. This species closely resembles *Cirsium brevistylum* (Indian thistle), a taller plant with the upper portion covered with cobwebby hairs. The leaves of *C. brevistylum* are shallowly lobed, whereas the leaves of *C. loncholepis* are deeply lobed with secondary lobes (Keil and Turner 1993).

Cirsium loncholepis is restricted to back dune and coastal wetlands of southern San Luis Obispo County and northern Santa Barbara County from the Pismo Dunes lake area and south historically to the Santa Ynez River, a distance of about 32 km (20 mi). The Guadalupe Dune complex, in which it occurs, extends inland only up to 3.2 km (2 mi). Deflation areas behind the foredunes often intersect the water table, creating wetlands and back dune lakes. *Cirsium loncholepis* is found in wet soils surrounding the dune lakes and in the moist dune swales, where it is often associated with rush (*Juncus* spp.), tule (*Scirpus* spp.), willow (*Salix* spp.), poison oak (*Toxicodendron diversilobum*), salt grass (*Distichlis spicata*), and coyote brush (*Baccharis pilularis*). The historic distribution of the species included extensive areas in the Orcutt region that have been converted from wetland habitat to agricultural uses or otherwise developed. It is likely that large populations similar to the existing one at the mouth of the Santa Maria River occurred in these areas prior to their conversion. As early as 1950, Smith studied the lack of suitable habitat for *C. loncholepis* in the vicinity of La Graciosa (Abrams and Ferris 1960, Smith 1976). The town of Orcutt is likely built near the site of La Graciosa and historic maps show the area covered with extensive wetlands which no longer exist (Hendrickson 1990).

The species is now restricted to marshes and the edges of willow thickets in damp swales in the Guadalupe dune system (Hendrickson 1990). The majority of the populations in the dune systems are small and isolated and show a reduced reproductive vigor (Hendrickson 1990). Seven of these populations have fewer than 60 plants each (California Natural Diversity Data Base (CNDDB) 1997). Only one population has a substantial number of plants, fluctuating between 6,000 and 54,000 individuals; however, it is located at the mouth of the Santa Maria River in the floodplain, where it

may be vulnerable to catastrophic floods.

Groundwater pumping, oil field development, and competition from alien plants are ongoing threats to this species (Hendrickson 1990, CDFG 1992). Cattle grazing in the riparian habitat at the mouth of the Santa Maria River may reduce the competition from other species (Hendrickson 1990), but the long term effects of livestock use on the habitat are unknown. All known extant populations of *Cirsium loncholepis* are on private lands. The trend for *Cirsium loncholepis* is one of decline (CDFG 1992, CNDDB 1997).

Eriodictyon capitatum (Lompoc yerba santa) was collected by Hoffman in 1932 near Lompoc growing under *Pinus muricata,* and described the following year (Eastwood 1933). *Eriodictyon capitatum* is a shrub in the waterleaf family (Hydrophyllaceae) with sticky stems up to 3 meters (m) (10 feet (ft)) tall. The sticky leaves are narrowly linear. The head-like inflorescence has lavender corollas that are 6 to 15 mm (0.2 to 0.6 in) long. It is distinguished from related species by its narrow, entire leaves and its head-like inflorescence (Halse 1993).

Eriodictyon capitatum occurs in maritime chaparral with bush poppy (*Dendromecon rigida*), scrub oaks (*Quercus berberidifolia, Q. parvula*), and buck brush (*Ceanothus cuneatus*) and in southern bishop pine forests (*Pinus muricata*) that intergrade with chaparral including manzanita (*Arctostaphylos* spp.) and black sage (*Salvia mellifera*) (Smith 1983). The four known populations of *E. capitatum* occur in western Santa Barbara County. Two of these, composed of three colonies, are on Vandenberg Air Force Base (VAFB). The other two populations are located in the oilfields south of Orcutt (one colony), and at the western end of the Santa Ynez Mountains (three colonies). The latter populations are on private land. Based on isozyme analysis, Elam (1994) determined that all of the Santa Ynez Mountains colonies and two of the VAFB colonies were multiclonal. The other two VAFB colonies are uniclonal. The Orcutt colony was not studied due to inaccessibility. A clone is composed of many stems produced by the vegetative spread of the root system. The three Santa Ynez Mountains colonies had a total of 48 clones. The three VAFB colonies had a total of 19 clones. *Eriodictyon capitatum* is self-incompatible (i.e., it requires pollen from genetically different plants to produce seed) and its fruits are parasitized by an insect (Elam 1994). A study of one of the uniclonal colonies at VAFB showed that *E. capitatum* resprouted successfully from the base of the plant after a prescribed fire. However, several stems died, no seedling recruitment occurred, and there was heavy damage from herbivory (Jacks *et al.* 1984).

Fire management practices, invasive non-native plant species, low seed productivity, and naturally occurring events pose significant threats to the long-term survival of this species. None of the colonies is actively protected. *Eriodictyon capitatum* was listed as rare by the State of California in 1979 (CDFG 1992).

Hemizonia increscens ssp. *villosa* (Gaviota tarplant) is member of the sunflower family. Tanowitz (1982) described this plant from collected material as well as a specimen gathered in 1902 by Elmer from Gaviota. *Hemizonia increscens* ssp. *villosa* is a yellow-flowered, gray-green, soft hairy annual that is 3 to 9 dm (12 to 35 in) tall with stems branching near the base. The lower leaves are 5 to 8.5 cm (2 to 3.4 in) long and gray-green. The inflorescence is rounded to flat-topped with 13 ray flowers and 18 to 31 usually sterile disk flowers. Two other subspecies, *H. i.* ssp. *increscens* and *H. i.* ssp. *foliosa,* differ from *H. i.* ssp. *villosa* by their stiff-bristly, deep green foliage (Keil 1993).

Hemizonia increscens ssp. *villosa* has a highly localized distribution in western Santa Barbara County, where it is associated with needlegrass grasslands dominated by the non-native wild oat (*Avena* spp.) and occasional native purple needle grass (*Nassella* spp.) that intergrade with coastal sage scrub composed of California sagebrush (*Artemisia californica*), coyote bush (*Baccharis pilularis*), and sawtooth golden bush (*Hazardia squarrosa*). Its habitat lies on an uplifted, narrow marine terrace 46 to 60 m (150 to 200 ft) above sea level. The plant is restricted to Conception and Milpitas-Positas soils, which consist of acidic, fine sandy loams (AAPC 1990). A subsurface clay layer 46 to 90 cm (18 to 36 in) deep may serve as a reservoir of soil moisture in an area otherwise characterized by summer drought (Howald 1989).

Hemizonia increscens ssp. *villosa* is known only from a narrow, 3.6 km (2.2 mi) long band of coastal terrace situated between the Santa Ynez Mountains and the ocean near Gaviota, 24 km (15 mi) west of Santa Barbara. Within this band, a total of about 24 hectares (ha) (60 acres (ac)) of habitat occurs with approximately 20 colonies of the taxon. The colonies are often separated by no more than 100 m (330 ft), and represent one extended population (Howald 1989). Other pockets of Conception and Milpitas-Positas soils occur along the coast to the west and east of Gaviota, where the vegetation continues to be altered by development, cattle grazing, and farming. Extensive repeated surveys have been conducted without success in these areas and it is not likely that additional plant populations will be found (Howald 1989). As is typical of annual plant species, the number of individuals present from one year to the next varies dramatically, depending on climatic conditions and other factors. There are some years when colonies may contain few to no individuals (Howald 1989). In 1995, the taxon was not abundant at any location (Kathy Rindlaub, pers. comm. 1995).

The narrow coastal terrace is bisected lengthwise by Highway 101, a railroad, and several pipelines. Most of the habitat for *Hemizonia increscens* ssp. *villosa* lies on the north side of the highway on private lands owned primarily by Texaco and Chevron. A few colonies occur on the south side of Highway 101 on land owned by the California Department of Parks and Recreation (Gaviota State Park) that are leased and managed by Texaco. In 1995, there were no individuals in the colony at the Texaco facility (K. Rindlaub, pers. comm. 1995).

Hemizonia increscens ssp. *villosa* is threatened by destruction of individual plants, habitat loss, and degradation from the development of oil and gas facilities, including pipelines, and competition with alien weeds. The recent trend for this taxon is one of decline (CDFG 1992).

Lupinus nipomensis (Nipomo mesa lupine) was collected in 1937 by Eastwood and Howell from Nipomo Mesa, San Luis Obispo County; Eastwood subsequently published a description of the species (Eastwood 1939). Although Munz (Munz and Keck 1973) submerged *L. nipomensis* as a synonym of *L. concinnus,* other floras, including the most recent treatment, recognize *L. nipomensis* as a species (Abrams 1944, Riggins 1993). *Lupinus nipomensis* is an annual member of the pea family (Fabaceae). It is 1 to 2 dm (4 to 8 in) tall and hairy with decumbent stems. The leaves, with 5 to 7 leaflets, are 10 to 15 mm (0.4 to 0.6 in) long and 5 to 6 mm (0.2 to 0.3 in) wide. The inflorescence is not whorled and the flowers are 6 to 7 mm (0.2 to 0.3 in) long with pink petals. *Lupinus nipomensis* is distinguished from the related *L. concinnus* by its decumbent inflorescence, succulent leaflets, lack of axillary flowers, and its restriction to sand dune habitat (Walters and Walters 1988).

Lupinus nipomensis grows in stabilized back dune habitat of the Guadalupe dunes in the southwestern corner of San Luis Obispo County. The plant occurs as 1 extended population in 5 colonies with fewer than 700 plants. The small patches are spread over 2.4 km (1.5 mi). At least three historical localities have been extirpated, including its type locality (CDFG 1992, CNDDB 1997). The majority of the habitat is considered degraded by either physical disturbance or invasion by non-native weedy species (Walters and Walters 1988). Even the high quality habitat is adversely affected by impacts from non-native invasive species. The occurrences in best condition are situated in dune swales and contain a higher diversity of native annuals in the vicinity of widely spaced individuals of mock heather (*Ericameria ericoides*), a small native subshrub. In both types of habitat, *L. nipomensis* requires pockets of bare sand, suggesting a low tolerance for competition (Walters and Walters 1988).

All known occurrences of *Lupinus nipomensis* are on private lands and remain unprotected. The primary threat to the species is the uncontrolled invasion of aggressive non-native weeds and the subsequent displacement of the species. The plant was listed by the State as endangered in 1987 and the recent trend is one of decline (CDFG 1992).

Previous Federal Action

Federal action on these plants began as a result of section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct in the United States. This report (House Document No. 94–51) was presented to Congress on January 9, 1975, and included *Cirsium loncholepis* and *Eriodictyon capitatum* as endangered. The Service published a notice in the July 1, 1975, **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) (petition provisions are now found in section 4(b)(3)) of the Act and its intention to review the status of the plant taxa named therein.

On June 16, 1976, the Service published a proposal in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. *Cirsium loncholepis* and *Eriodictyon capitatum* were included in the June 16, 1976, **Federal Register** publication. General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to those proposals already more than 2 years old. In the December 10, 1979, **Federal Register** (44 FR 70796), the Service published a notice of withdrawal of the June 16, 1976, proposal along with four other proposals that had expired.

The Service published an updated Notice of Review for plants on December 15, 1980 (45 FR 82480). This notice included *Cirsium loncholepis, Eriodictyon capitatum,* and *Lupinus nipomensis* as category 1 candidate species. Category 1 candidates were formerly defined as taxa for which the Service had on file substantial information on biological vulnerability and threats to support preparation of listing proposals, but issuance of the proposed rule was precluded by other pending listing proposals of higher priority. On November 28, 1983, the Service published a supplement to the Notice of Review in the **Federal Register** (48 FR 53640), in which *Cirsium loncholepis* and *Lupinus nipomensis* were included as category 2 candidates. Category 2 formerly included 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 available to support proposed rules.

The plant Notice of Review was again revised on September 27, 1985 (50 FR 39526). In this notice, *Eriodictyon capitatum* was included as a category 1 candidate, and *Cirsium loncholepis* and *Lupinus nipomensis* remained category 2 candidates. On February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51144), revised Notices of Review were published that included *Cirsium loncholepis, Eriodictyon capitatum, Hemizonia increscens* ssp. *villosa,* and *Lupinus nipomensis* as category 1 candidates. On February 28, 1996, the Service published a Notice of Review in the **Federal Register** (61 FR 7596) that discontinued the designation of category 2 species as candidates. That notice included as candidates only those taxa meeting the former definition of category 1, and included the four taxa in this proposed rule. They maintained candidate status in the Notice of Review published on September 19, 1997 (62 FR 49398).

The processing of this proposed rule conforms with the Service's final listing priority guidance for fiscal year 1997, published in the **Federal Register** on December 5, 1996 (61 FR 64475). In a **Federal Register** notice published on October 23, 1997 (62 FR 55628), the guidance was extended beyond fiscal year 1997 until such time as the fiscal year 1998 appropriations bill for the Department of the Interior becomes law and new final guidance is published. The fiscal year 1997 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 significant funding for listing through passage of the Omnibus Budget Reconciliation Act on April 26, 1996, following severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996. Based on biological considerations, this guidance establishes a ''multi-tiered approach that assigns relative priorities, on a descending basis, to actions to be carried out under section 4 of the Act'' (61 FR 64479). 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. Tier 3 includes the processing of new proposed listings for species facing high magnitude threats. This proposed rule falls under Tier 3, since the taxa all have listing priority numbers of 2 or 3. The guidance states that ''effective April 1, 1997, the Service will concurrently undertake all of the activities presently included in Tiers 1, 2, and 3'' (61 FR 64480). The Service has thus begun implementing a more balanced listing program, including processing more Tier 3 activities. The completion of this Tier 3 activity follows those guidelines.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) 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 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 *Cirsium loncholepis* Petrak (La Graciosa thistle), *Eriodictyon capitatum* Eastw. (Lompoc yerba santa), *Hemizonia increscens* ssp. *villosa* B.D. Tanowitz (Gaviota tarplant), and

Lupinus nipomensis Eastw. (Nipomo Mesa lupine) are as follows:

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

Habitat fragmentation and alteration of species composition and vegetation structure threaten the long term survival of all of the taxa in this rule. The taxa in this rule have extremely limited natural distributions (*Eriodictyon capitatum* and *Hemizonia increscens* ssp. *villosa*) or reduced distributions resulting from loss of habitat (*Cirsium loncholepis* and *Lupinus nipomensis*).

Eriodictyon capitatum is associated with the central maritime chaparral and bishop pine, threatened habitat types with limited distribution, and rich in plant species of limited distribution (Holland 1986). Most central maritime chaparral has been converted to a variety of land uses, and degraded by development, weed invasion, habitat fragmentation and other factors (Hoover 1970, Davis *et al.* 1988, Odion *et al.* 1992, CNDDB 1997). Ice plant invasion threatens to convert the maritime chaparral into a habitat dominated by mats of the exotic succulent (Odion *et al.* 1992). Ice plant was documented as an invasive in habitat occupied by *E. capitatum* following a prescribed fire (Jacks *et al.* 1984). Veldt grass was seeded in controlled burns and used for soil stabilization at VAFB and has become widespread and naturalized (Smith 1976, Jones and Stokes 1997). Comparison of historic and current photographs show no veldt grass in 1973, whereas in 1997 the same site was dominated by veldt grass (Chris Gillespie, VAFB, pers. comm. 1997).

Department of Defense base closures across the nation have resulted in the relocation of activities to those bases that remain operational. Facility maintenance and development for military and private commercial purposes planned at VAFB are likely to result in additional loss and alteration of habitat for *Eriodictyon capitatum* (Al Naydal, VAFB, pers. comm. 1993). There is considerable competition for use of the commercial spaceport on the base (25 to 30 companies) and launches are anticipated to occur every two weeks (C. Gillespie, pers. comm. 1995). Missile launch operations can adversely affect habitats surrounding launch facilities. In 1993, a missile destroyed shortly after launching at VAFB started brush fires caused by burning rocket fuel and also caused physical damage from large fragments of metal blasted downward toward the ground (Wallace 1993). In September 1997, a 200 ha (500 ac) fire ignited near an active missile silo and a 600 ha (1,500 ac) fire burned near occupied habitat of *Eriodictyon capitatum* (Los Angeles Times 1997a; J. Watkins, pers. comm. 1997). Wildfire containment lines in the vicinity of the species were observed after the fire (J. Watkins, pers. comm. 1997). On November 1, 1997, a 495 ha (1,225 ac) fire accidentally set by an explosives disposal team was partially contained by back burning the entire 35th Street population of *E. capitatum* (Los Angeles Times 1997b). Invasion by aggressive alien plant species occurs after fire in the maritime chaparral habitats (see factor E below). The expected increase in launch activities is likely to result in an increase in fires.

Hemizonia increscens ssp. *villosa* occurs within a narrow 3.6 km (2.25 mi) band of coastal terrace grassland about 24 ha (60 ac) in extent. About 40 percent of the coastal terrace habitat within the known range of *H. i.* ssp. *villosa* has been destroyed, altered, or fragmented by the construction of oil and gas facilities and pipelines. Projects during the past five years within the taxon's habitat include the installation of a water pipeline for the relocated Vista del Mar school, and construction of the Pacific pipeline (oil), the Mariposa pipeline (oil/gas), and the Molina drilling station. Molina Energy Company is developing a project to extract petroleum from three offshore natural gas reserves at an onshore drilling and production site. The Molina parcel contains the single largest continuous population of *H. i.* ssp. *villosa* (M. Meyer, pers. comm. 1996). Maintenance of pipelines and facilities will continue to disturb habitat for the taxon and facilitate the establishment of invasive weed species. Because the Santa Ynez Mountains rise sharply only 0.15 km (0.25 mi) inland from the coastline, the relatively flat coastal terrace forms a natural corridor for any utility project passing between the Gaviota Pass to the west and Santa Barbara to the east. All future projects that pass through this corridor are highly likely to adversely affect habitat for *H. i.* ssp. *villosa* by further destroying, degrading, and fragmenting habitat. The highest quality habitat remains unprotected and lies within this pipeline corridor. In attempts to mitigate habitat loss, a mitigation management area has been established by the oil industry; however, it protects less than five percent of the habitat. Because invasive species must be managed intensively to prevent their dominance, it is questionable whether this management area can sustain a colony of *Hemizonia* without ongoing intensive maintenance (K. Rindlaub, pers. comm. 1995). The trend for the taxon is one of decline (CDFG 1992).

The Guadalupe Dunes, which contain occurrences of *Cirsium loncholepis* and *Lupinus nipomensis*, have been extensively developed and altered for petroleum extraction (Rindlaub *et al.* 1985). About one-third of the historic occurrences of *C. loncholepis* have been extirpated (CDFG 1992). While the future extent of development and habitat alteration is unknown at this time, continued energy-related operations, including maintenance activities, hazardous waste clean-up, and other commercial development that result in additional habitat modification, remain a predominant threat (CDFG 1992). Ground water extraction in the Guadalupe Dunes and vicinity is thought to have diminished the total area of suitable habitat of *C. loncholepis* by lowering the water table and drying the wetlands (Smith 1976, Hendrickson 1990, CDFG 1992). Hydrological alterations remain a significant threat to this taxon (CDFG 1992). At least three historic populations of *Lupinus nipomensis*, including the type locality, have been extirpated. Development, along with invasion by alien plant species (see factor E below), are the primary threats to this species (CDFG 1992).

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

Overutilization is not known to be a factor affecting the taxa in this rule.

C. Disease or Predation

Disease is not known to be a factor affecting any of the taxa in this rule. Herbivory by pocket gophers (*Thomomys bottae*) has been documented to consume whole colonies of *Lupinus nipomensis* and is considered a major threat (Walters and Walters 1988). Veldt grass provides a year-round food source for the pocket gopher, thus creating artificially high densities of gophers and increased predation pressure upon *L. nipomensis.* Veldt grass was observed to be increasing during the course of a three-year monitoring program for *L. nipomensis* and is forming pure stands in the backdune habitat of *L. nipomensis* (Walters and Walters 1988). This increase in food source exacerbates the threat posed by pocket gopher predation.

Several invertebrate species have been documented as predators of *Lupinus nipomensis*, reducing the vigor and seed production of this species. The most significant predator is an anthomyid fly

(*Hylemya lupini* Coquillett) whose larvae burrow into the terminal inflorescence, reducing seed production and sometimes killing the entire plant (Walters and Walters 1988). Other invertebrate predators noted are mites, the caterpillars of the common painted lady butterfly (*Vanessa cardui*) and a noctuid moth that feed on leaves, a tent-building microlepidopteran larva (family Pyralidae) that causes leaf damage, and a lupine blue butterfly larva (*Plebejus lupini monticola* Clemence) that feeds on seed pods (Walters and Walters 1988). Predation by these taxa does not threaten the species in and of itself, but because of the limited range and small population size, predation in combination with other threats could adversely affect population viability.

Cattle grazing occurs within the habitats of *Cirsium loncholepis* and *Hemizonia increscens* ssp. *villosa*. Low levels of grazing may enhance the opportunities for both taxa to propagate successfully, as it may serve to reduce competition from other native species. Nevertheless, recent evidence indicates that heavy grazing has affected individuals of *H. increscens* ssp. *villosa* by reducing their stature and reducing the number of seeds that can be produced (AAPC 1990). Similar observations were made in the Guadalupe dunes and along the Santa Maria River where *C. loncholepis* was adversely affected (Hendrickson 1990).

D. The Inadequacy of Existing Regulatory Mechanisms

The California Fish and Game Commission has listed *Eriodictyon capitatum* as rare, *Cirsium loncholepis* as threatened, and *Hemizonia increscens* ssp. *villosa* and *Lupinus nipomensis* as endangered under the Native Plant Protection Act (NPPA) (chapter 1.5 sec. 1900 *et seq.* of the California Fish and Game Code) and the California Endangered Species Act (CESA) (chapter 1.5 sec. 2050 *et seq.*). California Senate Bill 879, passed in 1997 and effective January 1, 1998, requires individuals to obtain a section 2081(b) permit from CDFG to take a listed species incidental to otherwise lawful activities, and requires that all impacts be fully mitigated and all measures be capable of successful implementation. These requirements have not been tested; it will be several years before their effectiveness can be evaluated. In the past, attempts to mitigate rare plant populations have largely failed (Howald 1993).

The California Environmental Quality Act (CEQA) requires a full disclosure of the potential environmental impacts of proposed projects. The public agency with primary authority or jurisdiction over the project is designated as the lead agency, and is responsible for conducting a review of the project and consulting with the other agencies concerned with the resources affected by the project. Section 15065 of the CEQA Guidelines requires a finding of significance if a project has the potential to ''reduce the number or restrict the range of a rare or endangered plant or animal.'' Once significant effects are identified, the lead agency has the option to require mitigation for effects through changes in the project or to decide that overriding considerations make mitigation infeasible. In the latter case, projects may be approved that cause significant environmental damage, such as destruction of listed species. Protection of listed species through CEQA is, therefore, dependent upon the discretion of the agency involved.

State agencies reviewing requests for large development projects are required by CEQA to conduct surveys of the biological resources of a project site. Most public documents such as Environmental Impact Reports are prepared by the project proponent for the State agency. Sensitive species located during surveys are to be reported to the CNDDB, which is maintained by the CDFG Natural Heritage Division. If, however, the project proponent considers the information proprietary, consulting biologists may not report to the CNDDB.

One of the taxa in this proposal, *Cirsium loncholepis*, could potentially be affected by projects requiring a permit under section 404 of the Clean Water Act. Perennial freshwater emergent marshes and back dune wetlands are generally small and scattered, and treated as isolated wetlands or waters of the United States for regulatory purposes by the U.S. Army Corps of Engineers (Corps) under section 404 of the Clean Water Act (CWA). However, the CWA by itself does not protect *Cirsium loncholepis*. For example, Nationwide Permit No. 26 (33 CFR part 330 Appendix B (26)) was established by the Corps to facilitate issuance of permits for discharge of fill into wetlands up to 3 ac (1.2 ha). For project proposals falling under Nationwide Permit 26, the Corps seldom withholds authorization unless a listed threatened or endangered species' continued existence would likely be jeopardized by the proposed action, regardless of the significance of other wetland resources. Current section 404 regulations require an applicant to obtain an individual permit to fill isolated wetlands or waters larger than 3 ac (1.2 ha). In either case, candidate species receive no special consideration. Additionally and equally important, the upland watersheds that contribute significantly to the hydrology of marshes are not provided any direct protection under section 404. Alterations of hydrology resulting from groundwater pumping are thought to pose the most likely and serious threat to *C. loncholepis*. No permit is required under the CWA for groundwater pumping. As a consequence, the habitat of *C. loncholepis* receives insufficient protection under section 404 of the CWA.

Although several public agencies manage lands with occurrences of these and other sensitive, threatened and endangered species, none of those agencies have specific management plans for the taxa proposed for listing in this rule. Serious threats to the habitats of all of the plants in this rule persist that are not currently being addressed with active management (see factor E below). The CDFG has prepared an unpublished management plan for the State-listed *Cirsium loncholepis* (Morey 1990), but its recommendations have not yet been implemented.

Mitigation performed to satisfy CESA requirements for *Hemizonia increscens* ssp. *villosa* (State-listed endangered) has included salvaging seedbank and topsoil for transfer to a habitat creation site, seeding of areas disturbed by facility and pipeline construction, and enhancement of areas with low density of this taxon (AAPC 1990). These experimental mitigation measures are in progress and the long-term success of treatments will not be known for years. As of 1995, none of the sites showed success (K. Rindlaub, pers. comm. 1995). *Hemizonia increscens* ssp. *villosa* does not compete well with other annual species and long-term survival of relocated plants requires intensive maintenance. These experimental mitigation measures focus on reintroducing the plant and not necessarily reestablishing the other elements of the habitat that would maintain the plant in perpetuity. If the original habitat has been destroyed and the mitigation fails, there is an irretrievable loss of the resource.

E. Other Natural or Manmade Factors Affecting Their Continued Existence

Other threats to the taxa in this rule include displacement by non-native weeds, altered fire regimes, facility accidents, small population size, and loss of reproductive vigor. The most severe threat to the taxa in this rule is the active invasion and subsequent

modification or conversion of habitat and displacement of native species by aggressive alien weeds such as European beach grass, iceplant, veldt grass, and crystalline iceplant (Davis *et al.* 1988, Zedler and Schied 1988, Morey 1989, Walters and Walters 1989a, Odion *et al.* 1992, CNDDB 1997). Current research and management approaches are inadequate to provide control for the problem of alien plant invasions (Hobbs and Humphries 1995, Schierenbeck 1995). The California Exotic Pest Plant Council (CalEPPC) has compiled a list of the exotic pest plants of greatest ecological concern in California. The list categorizes the most invasive wildland pest plants that threaten native plants and natural habitats as list A–1, widespread pest plants, and list A–2, regional pest plants. *Ammophila arenaria* and *Carpobrotus edulis* are on list A–1 and *Ehrharta calycina* is on list A–2 (CalEPPC 1994). All of the habitats for the taxa in this rule are fragmented and dissected by roads and pathways that are the principal corridors for introduction of these weedy species (Odion *et al.* 1992).

Carpobrotus edulis, widely disseminated in the feces of deer and rabbits, tends to displace native plant species, particularly after fire or mechanical disturbance. *Carpobrotus edulis* has invaded native vegetation occupied by *Eriodictyon capitatum* after a prescribed fire, resulting in a documented increase in iceplant cover from negligible to 26 percent 3 years after the fire. This increase was attributed to post-fire seedling production of over 7,800 iceplant seedlings per ha (2,800 per ac) the year after the fire, with a survivorship of over 70 percent 3 years later (Zedler and Schied 1988). After establishment, each plant can grow to over 6 m (18 ft) in diameter (Vivrette 1993), virtually replacing all other vegetation. The Air Force is currently conducting prescribed burns on VAFB for fuels management without a program to control the subsequent invasion of weedy species (James Watkins, pers. comm. 1997). There is an effort to occasionally apply herbicides to a burn area; however, it is ineffective without follow-up measures to ensure the control of the invasive species. Because fire is inevitable in natural habitats, and prescribed burns are utilized for hazard fuels reduction, iceplant and other invasive weed invasions will continue to degrade habitat and adversely influence *Eriodictyon capitatum, Hemizonia increscens* ssp. *villosa,* and *Lupinus nipomensis.*

Other invasive plants, including Atriplex semibaccata (Australian saltbush), *Ehrharta calycina,* and *Avena* spp. threaten *Hemizonia increscens* ssp. *villosa* by displacement and the build-up of thatch (accumulated dead leaves and stems). *Hemizonia increscens* ssp. *villosa* requires open habitat in which to germinate and become established. Thatch from the alien grass species that dominate the habitat effectively prevents its establishment (K. Rindlaub, pers. comm. 1995).

Ehrharta calycina is actively invading occupied habitat of *Eriodictyon capitatum*, *Hemizonia increscens* ssp. *villosa,* and *Lupinus nipomensis* (Zedler and Schied 1988, Morey 1989, Walters and Walters 1989a, Wickenheiser and Morey 1990). This alien grass has a mass of roots that captures the majority of the moisture, effectively outcompeting the native vegetation and dominating habitats as a monoculture (David Chipping, California Native Plant Society, pers. comm. 1997). The density of *E. calycina* continues to increase and displace *L. nipomensis* (Bonnie Walters, California Polytechnic State University, pers. comm. 1997).

Eriodictyon capitatum and *Hemizonia increscens* ssp. *villosa* occupy habitats that experience periodic fires. Fire is an important component of natural ecosystems in California wildland habitats and suppression of natural fires facilitates ecosystem degradation (Schoenherr 1992, Keeley 1995). All recent fires in the central maritime chaparral are human-caused, resulting from arson, prescribed management, or accidental ignition (Philbrick and Odion 1988). The highly fragmented nature of the remaining chaparral habitat has ended the occurrence of large wildland fires that burn under natural conditions in the coastal chaparral areas considered in this rule. Natural fire frequencies and intensities are not known, but estimates of burn intervals exceed 30 years. The use of prescribed burning as a management technique is restricted to periods when environmental conditions are favorable to preventing the spread of escaped fire, thus preventing a normal, wildland fire-spread situation. Wildland fire-spread occurs during high wind events that force the fire quickly through a stand of fuel, resulting in short burn durations and generally cooler ground temperatures. Prescribed fire behavior does not mimic natural conditions, since low wind speed is required for control of the fire. This causes an increase in the duration and intensity of the fire and results in higher mortality of seeds in the soil and reduced post-fire species diversity (Odion *et al.* 1992, Keeley 1995). Additionally, burned habitats are rapidly invaded by non-native species that alter the type and structure of the fuel (Odion et al. 1992).

Petroleum-processing plant catastrophes are rare events but have the potential to threaten the long-term survival of *Hemizonia increscens* ssp. *villosa* and *Lupinus nipomensis,* which have the smallest distributions of the taxa in this rule. All known individuals of *H. i.* ssp. *villosa* are contained within a 3.2 km (2 mi) radius and all known locations for *L. nipomensis* occur within a 1.2 km (0.75 mi) radius of oil and gas refineries and associated storage facilities. The Chevron Gaviota Processing Facility, managed by at least 12 operating companies to consolidate pipelines and treating plants, is at the center of the distribution of *H. i.* ssp. *villosa.* The Santa Maria UNOCAL refinery and storage facilities are near the center of the distribution of *L. nipomensis.* These facilities occur in a tectonically complex and active region that is characterized by moderate to locally high historic seismicity, which can result in facility catastrophes (AAPC 1990). In the event of a facility catastrophe, the resulting habitat modification could destroy populations or cause the extinction of taxa with such extremely limited distribution.

Cirsium loncholepis at Mud Lake has been destroyed by herbicide application on poison oak (Hendrickson 1990, CNDDB 1997). The significance of herbicide application as a threat to the survival of *C. loncholepis i*s unknown.

By virtue of the limited number of individuals or range of the existing populations, the taxa proposed in this rule are highly vulnerable to naturally occurring events. Loss of genetic variability may decrease the ability of these taxa to survive within the environment, and is frequently manifested in depressed reproductive vigor (Karron 1991). *Eriodictyon capitatum* is self-incompatible and produces few viable seeds. In two colonies of this species, each composed of a single genetic unit, there is virtually no seed production (Elam 1994). Seeds of *Cirsium loncholepis* have been shown to be of limited viability in its small back dune populations (Hendrickson 1990). Because of the small population size, this vulnerability is exacerbated by natural events such as drought, flooding, fires, earthquakes, outbreaks of insects or disease, or other catastrophic events that could destroy a significant percentage of the individuals of the species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these taxa in determining to propose

this rule. Based on this evaluation, the preferred action is to propose listing *Cirsium loncholepis, Eriodictyon capitatum, Hemizonia increscens* ssp. *villosa,* and *Lupinus nipomensis* as endangered. The habitats for these taxa have been much reduced due to residential, commercial, and oil and gas development. These taxa continue to face threats from development, military activities, alteration of natural fire cycles, and invasion of non-native species. The limited habitat for the four taxa and their small population sizes make *Cirsium loncholepis, Eriodictyon capitatum, Hemizonia increscens* ssp. *villosa,* and *Lupinus nipomensis* particularly vulnerable to extinction from naturally occurring events. Existing regulations do not provide adequate protection to prevent further losses; many actions adversely affecting these taxa and their habitats are ongoing. Because the four plant taxa are in danger of extinction throughout all or a significant portion of their ranges, they fit the Act's definition of endangered.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection and; (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon the determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

None of the known occurrences of *Cirsium loncholepis* are on Federal land (CNDDB 1997). Critical habitat designation only applies to Federal lands or lands on which there is Federal activity. The primary habitat elements essential for conservation of this species at all other historical sites have been destroyed by development and agriculture (CNDDB 1997). Although *C. loncholepis* is a wetland species and alteration of its habitat may be regulated by the Corps under section 404 of the CWA, current protection under section 404 is inadequate (see factor D in the ''Summary of Factors Affecting the Species'' section above). The Service believes that activities regulated under section 404 that could impact the habitat of *C. loncholepis* are unlikely to occur, and that this species is primarily threatened by unregulated hydrological alterations, competition from alien plants, and trampling and herbivory by livestock and wildlife. Moreover, the inadequacies of the section 404 permitting process for protecting very small plant populations, discussed in detail under factor D of the ''Summary of the Factors'' section above, apply to this species. In addition, because of the small size of the populations of this species and the lack of historical habitat elsewhere, any activities that would be regulated under section 404 of the CWA and cause adverse modification of its habitat would also likely jeopardize its continued existence. Designation of critical habitat for *C. loncholepis* is therefore not prudent because it provides no additional benefit to the species beyond that conferred by listing under section 7 of the Act.

Two of the four populations of *Eriodictyon capitatum* occur on private lands with very little likelihood of Federal involvement. Critical habitat designation only applies to Federal lands or lands on which there is Federal activity. The other two populations, consisting of three colonies, occur on VAFB. Two of these three colonies are uniclonal, making them highly vulnerable to naturally occurring events. All populations are extremely small and the Service believes that any adverse modification of designated critical habitat for this species would also be likely to jeopardize the species under section 7 of the Act. Because the Department of Defense is aware of this species and its locations on VAFB, and must consult with the Service on any activities likely to affect these populations once the species is listed, there would be no additional benefits to the species from designation of critical habitat beyond those conferred by listing itself. Designation of critical habitat is therefore not prudent for *Eriodictyon capitatum* because of lack of benefit.

Hemizonia increscens ssp. *villosa* is known only from one population on private land where there is very little likelihood of Federal involvement. Critical habitat designation only applies to Federal lands or lands on which there is Federal activity. Designation of critical habitat for *Hemizonia increscens* ssp. *villosa* is therefore not prudent because of a lack of benefit.

Only a single population of *Lupinus nipomensis* is known to be extant. The only other known occurrence was extirpated by land conversion. The plant occurs only on private lands with very little likelihood of Federal involvement. Critical habitat designation only applies to Federal lands or lands on which there is Federal activity. No Federal lands occur within the historical range of the species. Designation of critical habitat for *Lupinus nipomensis* is therefore not prudent because of a lack of benefit.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species 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 local agencies, private organizations, and individuals. The Act provides for possible land acquisition from willing sellers 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 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 and with respect to any proposed or designated critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) 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 any is designated. 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.

VAFB will likely become involved with two of these plant taxa through the section 7 consultation process. While no activities are known at this time, future activities may affect populations of or habitat for *Cirsium loncholepis* and *Eriodictyon capitatum*. The Corps might become involved with *C. loncholepis* through its permitting authority as described under section 404 of the CWA, although the Service believes that activities regulated under section 404 are not a likely threat to this species. As previously discussed, nationwide or individual permits cannot be issued when a federally listed endangered or threatened species would be affected by a proposed project without first completing a section 7 consultation with the Service.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all threatened and endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 for endangered plants apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction of areas under federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation including State criminal trespass law. Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. It is anticipated that few trade permits would ever be sought or issued because these species are not in cultivation or common in the wild. Information collections associated with these permits are approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 1018–0094. For additional information concerning these permits and associated requirements, see 50 CFR 17.62. Requests for copies of the regulations concerning listed plants and general inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (telephone 503/231–2063; facsimile 503/231–6243).

It is the policy of the Service, published in the **Federal Register** (59 FR 34272) on July 1, 1994, to identify to the maximum extent practicable those activities that would or would not be likely to constitute a violation of section 9 of the Act if a species is listed. The intent of this policy is to increase public awareness of the effect of the species' listing on proposed and ongoing activities within its range. The Service believes that, based upon the best available information, the following actions would not result in a violation of section 9, provided these activities were carried out in accordance with existing regulations and permit requirements:

(1) Activities authorized, funded, or carried out by Federal agencies (e.g., military activities, grazing management, agricultural conversions, wetland and riparian habitat modification, flood and erosion control, residential development, recreational trail development, road construction and maintenance, hazardous material containment and cleanup activities, prescribed burns, pesticide/herbicide application, pipelines or utility line crossing suitable habitat, other land use activities that would significantly modify the habitat of the taxa) when such activity is conducted in accordance with any reasonable and prudent measures given by the Service according to section 7 of the Act; or when such activity does not occur in habitats suitable for the survival and recovery of the four taxa proposed in this rule and does not alter the hydrology or habitat supporting those taxa.

(2) Casual, dispersed human activities on foot or horseback (e.g., camping, hiking, bird-watching, sightseeing, photography).

(3) Activities on private lands (without Federal funding or involvement), such as grazing management, agricultural conversions, wetland and riparian habitat modification (not including filling of wetlands), flood and erosion control, residential development, road construction, pesticide/herbicide application, residential landscape maintenance, and pipelines or utility lines crossing suitable habitat.

The Service believes that the actions listed below might potentially result in a violation of section 9; however, possible violations are not limited to these actions alone:

(1) Unauthorized collecting of the taxa on Federal lands.

(2) Application of herbicides violating label restrictions.

(3) Interstate or foreign commerce and import/export without previously obtaining an appropriate permit. Permits to conduct activities are available for purposes of scientific research and enhancement of propagation or survival of the species.

Questions regarding whether specific activities, such as changes in land use, would constitute a violation of section 9, should these taxa be listed, should be directed to the Field Supervisor of the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

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. The Fish and Wildlife Service will follow its peer review policy (July 1, 1994; 59 FR 34270) in the processing of this rule. Comments are particularly sought concerning:

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

(2) The location of any additional populations of these taxa 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 these taxa; and

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

A final determination of whether to list these taxa will take into consideration the comments and any additional information received by the Service. Such communications may lead to a final decision-making document 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 in the **Federal Register**. Such requests must be made in writing and addressed

to the Field Supervisor (see **ADDRESSES** section).

National Environmental Policy Act

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 of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

This proposed rule does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

References Cited

A complete list of all references cited herein is available upon request from the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author: The primary author of this proposed rule is Tim Thomas, Ventura Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

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]

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. Amend section 17.12(h) by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Cirsium loncholepis	La Graciosa thistle ..	U.S.A. (CA)	Asteraceae—Sunflower.	E	.....	NA	NA
*	*	*	*	*	*	*	
Eriodictyon capitatum.	Lompoc yerba santa	U.S.A. (CA)	Hydrophyllaceae—Waterleaf.	E	.....	NA	NA
*	*	*	*	*	*	*	
Hemizonia increscens ssp. *villosa.*	Gaviota tarplant	U.S.A. (CA)	Asteraceae—Sunflower.	E	.....	NA	NA
*	*	*	*	*	*	*	
Lupinus nipomensis	Nipomo Mesa lupine	U.S.A. (CA)	Fabaceae—Pea	E	.....	NA	NA
*	*	*	*	*	*	*	

Dated: March 17, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 98–8049 Filed 3–27–98; 8:45 am]

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