favorable to this species; the frequent fires associated with shelling are undoubtedly a principal reason why the species is surviving on military lands and not on surrounding private lands. DOD personnel are aware of the species' plight and have been cooperative in protection efforts. However, heavy siltation is a potential problem that could threaten the small drainages occupied by the species. Although troop movements directly through an area occupied by the satyr could have negative impacts, this has not occurred to date; these activities have now been directed away from areas where the satyr occurs. Other potential threats to the species include pest control programs (for mosquitoes or gypsy moths) and beaver control.

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 make this rule final. Based on this evaluation, the preferred action is to list Saint Francis' satyr as endangered. With only one population remaining (and this one having already been diminished by intensive collecting) and with the other subspecies having been completely eliminated from half the States where it historically occurred, the threat of overcollection cannot be denied. The additional threats to the habitat from fire exclusion and the lack of other processes that formerly created suitable habitat make this species even more vulnerable to extinction. Critical habitat is not being designated for the reasons discussed below.

## **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 a 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 requires 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. The Service finds that

designation of critical habitat is not presently prudent for this species. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when 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.

As discussed under Factor B in the Summary of Factors Affecting the Species section, Saint Francis' satyr has already been impacted by overcollecting and continues to be threatened by collecting pressure. Publication of critical habitat descriptions and maps would make the satyr more vulnerable to collection and would increase enforcement problems and the likelihood of extinction. Protection of this species' habitat will be addressed through the recovery process and through the section 7 jeopardy standard. The single remaining population is located on military lands, where the DOD is aware of its occurrence.

## **Available Conservation Measures**

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

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

into formal consultation with the Service.

Federal activities that could impact Saint Francis' satyr and its habitat in the future include, but are not limited to, the following: road and firebreak construction, pesticide application, beaver control, troop movements, prescribed burning and fire suppression, and facilities construction. The only known population is located on military lands, where the DOD is already working with the Service to secure the protection and proper management of Saint Francis' satyr while accommodating military activities to the extent possible. Conservation of this butterfly is consistent with most ongoing military operations at the occupied site, and the listing of the species is not expected to result in significant restrictions on military use of the land.

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

It is the policy of the Service, published in the Federal Register on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time of listing those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed or ongoing activities within a species' range. Since Saint Francis' satyr is currently only found on DOD lands, and since the DOD is cooperating with the Service in protecting this species, there do not appear to be any current military activities that would likely be a violation of section 9.

Taking the species for butterfly collections or for sale, such as has been done in the past, is prohibited. Possession of specimens legally acquired would not be a violation. The Service is not aware of any otherwise lawful activities being conducted or proposed by the public that will be affected by this listing and result in a violation of section 9. Questions