in Illinois also threaten the species' habitat. A variety of other developments in this rapidly-growing area are in various stages of planning and execution that threaten the dragonfly's habitat.

B. Overutilization for commercial, recreational, scientific, or educational purposes. Overutilization is not believed to be a factor in the species' continued existence, but the Federal protection under the Act will prohibit unauthorized collection of individuals of the species. Protection from collection may become important because collectors may seek the species.

C. Disease or predation. The importance of these factors is presently unknown.

D. The inadequacy of existing regulatory mechanisms. The stream and aquatic habitat of the Hine's emerald dragonfly is within the jurisdiction of the Clean Water Act that established various regulatory mechanisms to protect surface and ground water from the effects of point and non-point discharges. Section 404 of the Clean Water Act, which is administered by the U.S. Army Corps of Engineers in conjunction with the U.S. Environmental Protection Agency, established a regulatory program to protect waters of the United States from the adverse effects of filling. The States of Illinois, Indiana, Ohio, and Wisconsin administer similar programs to protect surface and ground water quality. Despite these Federal and State regulatory mechanisms, the aquatic habitat of the Hine's emerald dragonfly was apparently extirpated in Ohio and Indiana, although the dragonfly may have been extirpated prior to the creation of these programs. Nevertheless, Federal and State regulations appear to be only partially effective in preventing the loss and degradation of the aquatic habitats of the Hine's emerald dragonfly. This listing will enhance the level of protection those aquatic habitats and the dragonfly receive through those programs.

E. Other natural or manmade factors affecting its continued existence. Automobile impact is a threat where sites occur near roadways due to adult dragonflies hovering, and in some areas the dragonflies are known to fly across roadways to reach foraging habitat.

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 this final rule. Based on this evaluation, the preferred action is to list Hine's emerald dragonfly as 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 a determination that such areas 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 the species is endangered or threatened. Service regulations (50 CFR 424.12 (a)) state that critical habitat is not determinable if information sufficient to perform required analysis of the impacts of the designation is lacking or if the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat. Section 4(b)(2) of the Act requires the Service to consider economic and other relevant impacts of designating a particular area as critical habitat on the basis of the best scientific data available. The Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the conservation benefits, unless to do such would result in the extinction of the species.

The Service finds that designation of critical habitat for the Hine's emerald dragonfly is not determinable at this time. When a "not determinable" finding is made, the Service must, within two years of the publication date of the original proposed rule, designate critical habitat, unless the designation is found to be not prudent (50 CFR 424.17(b)(2)).

The Service will initiate a concerted effort to obtain the information needed to determine critical habitat for the Hine's emerald dragonfly. Wisconsin Department of Natural Resources is willing to work closely with the Service to conduct studies to evaluate if designation of critical habitat is determinable. A proposed rule for critical habitat designation must be published in the **Federal Register**, and the notification process and public

comment provisions parallel those for a species listing. In addition, the Service will evaluate the economic and other relevant impacts of the critical habitat designation, as required under Section 4(b)(2) of the Act.

The presently known populations of this species are located on fragmented and degraded wetland habitats. The size, location, area, spatial configuration, and composition of specific areas essential to the conservation of the Hine's emerald dragonfly or which may require special management considerations or protection cannot be determined without further study.

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 results in public awareness and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

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

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part,