

*Reporting threshold* means the amount specified in § 225.19(e) of this chapter, as adjusted from time to time in accordance with appendix B to part 225 of this chapter. The reporting threshold for calendar years 1991 through 1996 is \$6,300. The reporting threshold for calendar year 1997 is \$6,500. The reporting threshold for calendar years 1998 through 2000 is \$6,600.

\* \* \* \* \*

*Train accident* means a passenger, freight, or work train accident described in § 225.19(c) of this chapter (a "rail equipment accident" involving damage in excess of the current reporting threshold, \$6,300 for calendar years 1991 through 1996, \$6,500 for calendar year 1997, \$6,600 for calendar years 1998 through 2000), including an accident involving a switching movement.

\* \* \* \* \*

3. By amending § 219.201 by revising the introductory text of paragraphs(a)(1) and (a)(2), and by revising paragraph (a)(4) to read as follows:

**§ 219.201 Events for which testing is required.**

(a) \* \* \*

(1) *Major train accident.* Any train accident (*i.e.*, a rail equipment accident involving damage in excess of the current reporting threshold, \$6,300 for calendar years 1991 through 1996,

\$6,500 for calendar year 1997, \$6,600 for calendar years 1998 through 2000) that involves one or more of the following:

\* \* \* \* \*

(2) *Impact accident.* An impact accident (*i.e.*, a rail equipment accident defined as an "impact accident" in § 219.5 of this part that involves damage in excess of the current reporting threshold, \$6,300 for calendar years 1991 through 1996, \$6,500 for calendar year 1997, and \$6,600 for calendar years 1998 through 2000) resulting in—

\* \* \* \* \*

(4) *Passenger train accident.* Reportable injury to any person in a train accident (*i.e.*, a rail equipment accident involving damage in excess of the current reporting threshold, \$6,300 for calendar years 1991 through 1996, \$6,500 for calendar year 1997, and \$6,600 for calendar years 1998 through 2000) involving a passenger train.

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**PART 225—[AMENDED]**

1. The authority citation for part 225 is revised to read as follows:

**Authority:** 49 U.S.C. 20103, 20107, 20901, 20902, 21302, 21311; 49 U.S.C. 103; 49 CFR 1.49 (c), (g), and (m).

2. In § 225.19, by revising the first sentence of paragraph (c) and by revising paragraph (e) to read as follows:

$$\text{New Threshold} = \text{Prior Threshold} \times \left\{ 1 + 0.5 \frac{(W_n - W_p)}{W_p} + 0.5 \frac{(E_n - E_p)}{100} \right\}$$

Where:

Prior Threshold = \$6,600 (for rail equipment accidents/incidents that occur during calendar year 1999)

W<sub>n</sub> = New average hourly wage rate (\$) = 17.888333

W<sub>p</sub> = Prior average hourly wage rate (\$) = 18.085000

E<sub>n</sub> = New equipment average PPI value (\$) = 134.89166

E<sub>p</sub> = Prior equipment average PPI value (\$) = 134.49166

9. The result of these calculations is \$6,577.3144. Since the result is rounded to the nearest \$100, the new reporting threshold for rail equipment accidents/incidents that occur during calendar year 2000 is \$6,600, which is the same as for calendar years 1998 through 1999.

Issued in Washington, DC, on November 15, 1999.

**Jolene M. Molitoris,**  
*Administrator, Federal Railroad Administration.*

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**RIN 1018-AE75**

**Endangered and Threatened Wildlife and Plants; Final Endangered Status for the Plant *Fritillaria gentneri* (Gentner's fritillary)**

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

**ACTION:** Final rule.

**§ 225.19 Primary groups of accidents/incidents.**

\* \* \* \* \*

(c) Rail equipment accidents/incidents are collisions, derailments, fires, explosions, acts of God, and other events involving the operation of on-track equipment (standing or moving) that result in damages higher than the current reporting threshold (*i.e.* \$6,300 for calendar years 1991 through 1996, \$6,500 for calendar year 1997, and \$6,600 for calendar years 1998 through 2000) to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and the costs for acquiring new equipment and material. \* \* \*

\* \* \* \* \*

(e) The reporting threshold is \$6,300 for calendar years 1991 through 1996. The reporting threshold is \$6,500 for calendar year 1997 and \$6,600 for calendar years 1998 through 2000. The procedure for determining the reporting threshold for calendar year 1997 and later appears as appendix B to part 225.

3. Part 225 is amended by revising paragraphs 8 and 9 of appendix B to read as follows:

**Appendix B to Part 225—Procedure for Determining Reporting Threshold**

\* \* \* \* \*

8. Formula:

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), determine endangered status under the Endangered Species Act of 1973, as amended (Act), for *Fritillaria gentneri* (Gentner's fritillary) (= Mission-bells). This plant is found only in two counties, Jackson and Josephine, in southwestern Oregon. This taxon is threatened by residential development, agricultural activities, logging, road and trail improvement, off-road vehicle use, collection for gardens, and problems associated with small population size. This rule implements the Federal protection and recovery provisions afforded by the Act for *Fritillaria gentneri*.

**EFFECTIVE DATE:** This final rule is effective January 10, 2000.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife

Service, Oregon Fish and Wildlife Office, 2600 S.E. 98th Ave., Suite 100, Portland, Oregon 97266.

**FOR FURTHER INFORMATION CONTACT:** Andrew Robinson, botanist, at the above address or by telephone 503/231-6179.

**SUPPLEMENTARY INFORMATION:**

**Background**

*Fritillaria gentneri* is a red-flowered herb belonging to the lily family (Liliaceae). *Fritillaria gentneri* was discovered by members of the Gentner family from Medford, Oregon, who noticed that a red fritillary brought into their garden (and seen in a flower arrangement at a friend's house) was different from the relatively common "red bells," *Fritillaria recurva*. The new plant species, *Fritillaria gentneri*, was given its scientific name by Helen M. Gilkey (1951). Its taxonomic status was reviewed by Guerrant (1992), who addressed the question of whether what is referred to as *Fritillaria gentneri* is, in his words, "a single historical entity"—a distinct species, or whether different populations of similar plants might have arisen independently from separate hybridization episodes between *Fritillaria recurva* and *Fritillaria affinis*. He concluded that *Fritillaria gentneri* is a separate species (Ed Guerrant, Berry Botanic Garden, *in litt.* 1998).

*Fritillaria gentneri* has a fleshy bulb and a robust stem 5 to 7 decimeters (20 to 28 inches (in.)) high. The stems and leaves are glaucous (having a bluish waxy coating) and are sometimes mottled with purple. The leaves are lanceolate (arrow shaped), sometimes linear, 7 to 15 centimeters (cm) (3 to 6 in) long and 0.7 to 1.5 cm (0.3 to 0.6 in) wide at the base, and they are often whorled (in groups of three or more at the same point on the stem). The flowers are solitary or in bracted racemes (simply branched flowering stem with a small leaf at the base of each branch), solitary or in groups of up to five on long pedicels (the stalk supporting a single flower). The campanulate (bell-shaped) corolla is 3.5 to 4 cm (1.4 to 1.6 in) long and is reddish purple with pale yellow streaks. The style (the slender elongated part of the female reproductive organ) is deeply split, about half its length. The only other red-flowered fritillary in the vicinity, *Fritillaria recurva* or scarlet fritillary, has styles that are split only one-fourth to one-third their length (Gilkey 1951; Peck 1961; Meinke 1982).

*Fritillaria gentneri* is restricted to southwestern Oregon, where it is known only from scattered localities in the Rogue and Illinois River drainages in Josephine and Jackson Counties.

*Fritillaria gentneri* occurs in dry, open woodlands of fir or oak at elevations below approximately 1,360 meters (m) (4,450 feet (ft)). The species is highly localized within a 48-kilometer (km) (30-mile (mi)) radius of Jacksonville Cemetery. Seventy-three percent of the known plants of *Fritillaria gentneri* are in a central cluster located within an 11-km (7-mi) radius of the Jacksonville Cemetery. The remaining plants occur as single individuals or occasional clusters of individuals sparsely distributed across the landscape.

We analyzed the status of this species and its population trend by dividing its range into a longitude-latitude grid with macro plots or cells as the finest unit of resolution. Each macro plot is 0.1 minute of latitude by 0.1 minute of longitude, or approximately 0.1 square mi (6.3 acres (ac) or 2.56 hectares (ha)). We numbered the macro plots to make them easy to locate on topographic maps, using a numbering system developed by Dr. Andrew F. Robinson Jr. (U.S. Fish and Wildlife Service 1998). *Fritillaria gentneri* was originally reported from 53 macro plots but currently is extant in only 45 (or 85 percent of the original number). It has been extirpated from 2 of the 40 macro plots in the central cluster around Jacksonville Cemetery and from 6 of the 13 occurrences outside of the central cluster of the species.

The rarity of *Fritillaria gentneri* was confirmed, to some extent, by information that landowners submitted to us in response to our proposal to list this plant as an endangered species (63 FR 13819). This proposal was publicized through outreach efforts and in a news story in the Daily Courier of Grants Pass. Twelve landowners informed us that they had a red fritillary on their lands that they believed was *Fritillaria gentneri*. The number of plants ranged from 1 to 125, with a total of 333 plants reported. Two landowners provided fresh flowering material (including material from the largest site), which in both cases was determined to be *Fritillaria recurva* (scarlet fritillary). At least half (179) of the 333 reported plants are likely to be *Fritillaria recurva*. Three landowners provided photographs. Only one of the photographs showed enough detail to allow identification of the plant, which was *Fritillaria recurva*. This species' flowers are quite similar to those of *Fritillaria gentneri* and the only reliable distinguishing character is the depth to which the style is split. *Fritillaria recurva* is much more widespread and abundant, but *Fritillaria gentneri* does co-occur with it. To confirm whether *Fritillaria gentneri* occurs at these 12

locations, field visits will be necessary during the flowering season (April–June).

It is difficult to get accurate counts of the number of non-flowering plants at a location for at least two reasons. Many of the plants remain dormant for several years and do not produce above-ground stems and flowers. Because a count for any site includes growing plants only, it does not count the dormant plants. Secondly, actively growing plants may be grazed early on in the growing season by deer, and thus do not set flower and are impossible to locate and census. One survey counted 60 flowering plants and 200 non-flowering plants (Rolle 1988b). Knowing exactly how many plants are present is less important than knowing the size of the breeding population, which is an important variable. For long-term genetic evolutionary flexibility, a breeding population needs to be greater than 500 plants (Falk and Hoslinger 1991). Even if all the new reports represent *Fritillaria gentneri*, the entire species would barely exceed the minimum number of reproducing plants needed for long-term genetic integrity. The minimum numbers of plants needed to ensure the species' long-term survival in the face of threats to its habitat are probably much greater.

Ownership information is currently available for 50 of the 53 total number of macro plots. Thirteen macro plots are on lands managed by the Medford District of the Bureau of Land Management (BLM). Two are on a right-of-way managed by the Oregon State Department of Transportation, District 8. Three are on lands managed by Southern Oregon University. Seven are on lands managed by the City of Jacksonville. The remaining 25 macro plots are privately owned land, so about half of this plant's current distribution (20 out of 45 macro plots with extant populations) is on private lands.

Estimated numbers of flowering plants in the 45 macro plots ranged from 1 (for 12 plots) to 100 (Pelton Road plot). The total number of flowering plants in the 45 macro plots is 340. The amount of habitat occupied within a macro plot varied from the space occupied by a single plant (1 square m or 10.75 square ft) to 1.2 ha (3 ac). The counts of flowering plants are likely to be very accurate because the plants are so easy to spot; however, no estimates are available of how many nonflowering or dormant plants might be in the same area.

*Fritillaria gentneri* exists in elevations ranging from approximately 180 to 1,360 m (600 to 4,450 ft). According to J. Kagan (Oregon Natural Heritage Program, Portland, Oregon, pers. comm.

1997), *Fritillaria gentneri* is found in three habitats—oak woodlands dominated by *Quercus garryana* (Oregon white oak); mixed hardwood forest dominated by *Quercus kelloggii* (California black oak), *Quercus garryana*, and *Arbutus menziesii* (madrone); and coniferous forests dominated by *Arbutus menziesii* and *Pseudotsuga menziesii* (Douglas-fir). Although there are thousands of acres of these three habitat types that range from Grants Pass, Oregon to south of the Oregon-California border, The Nature Conservancy classifies one of these three habitats, the oak woodland, as endangered throughout its range; the other two habitats are threatened. All three are threatened by urban and agricultural development and fire suppression.

*Fritillaria gentneri* typically grows in or on the edge of open woodlands with *Quercus garryana* and *Arbutus menziesii* as the most common overstory plants. *Pinus ponderosa* (western yellow pine) and *Pseudotsuga menziesii* are also frequently present. *Arctostaphylos viscida* (white-leaved manzanita), *Ceanothus cuneatus* (buckbrush), *Ceanothus velutinus* (snowbrush), *Cercocarpus betuloides* (plume tree), *Quercus sadleriana* (Sadler oak), and *Rhus diversiloba* (poison oak) are commonly encountered understory shrub species. Herbs are typical of those found in the Rogue Valley foothills—*Arabis subpinnatifida* (ashy rock cress), *Astragalus accidens* var. *hendersoni* (Rogue River milkvetch), *Bromus ciliatus* (fringed brome), *Dodecatheon hendersoni* (Henderson's shootingstar), *Festuca californica* (California fescue), *Festuca idahoensis* (Idaho fescue), *Fragaria vesca* var. *bracteata* (woods strawberry), *Fritillaria affinis* (mission bells), *Fritillaria recurva* (scarlet fritillary), *Lewisia* spp. (lewisia), *Lomatium utriculatum* (finleaf biscuit-root), *Poa sandbergii* (Sandberg's bluegrass), *Ranunculus occidentalis* (western buttercup), *Romanzoffia suksdorfii* (Suksdorf's romanzoffia), *Senecio* spp. (groundsel), *Sidalcea* spp. (checker-mallow), *Stipa lemmonii* (Lemmon's needle grass), and *Vicia americana* (American vetch). *Fritillaria gentneri* can also grow in open chaparral/grassland habitat, which is often found within or adjacent to the mixed hardwood forest type, but always where some wind or sun protection is provided by other shrubs. It does not grow on extremely droughty sites. For unknown reasons, much apparently potential habitat within the species range is unoccupied.

Rolle (1988e) stated that *Fritillaria gentneri* often grows in places that have

experienced human disturbance and eventually became revegetated (e.g., old road cuts, alongside trails, bulldozer routes, old mounds left from past mining or other earth-moving activities). At least 50 percent of the sites Rolle (1988e) documented exhibited signs of disturbance in the past. Rolle has not, however documented that earth-moving activity has spread bulblets. The species seems to require some infrequent but regular level of disturbance such as the historic pattern of fire frequency in the Rogue and Illinois River valleys. It is not an early colonizer of these sites but eventually takes advantage of the opening or edge effect created. It appears to be a mid-successional species in that it establishes after other plants have colonized a disturbed area, but before taller vegetation becomes established and shades it out.

*Fritillaria gentneri* is a perennial species that reproduces asexually by bulblets. The bulblets break off and form new plants. According to E. Guerrant (pers. comm. 1997), even though some *Fritillaria gentneri* plants may form fruits and seeds if pollinated, no good evidence exists that the seeds produced are fertile or viable. Hummingbirds or bumble bees are presumed to be the primary pollinators (E. Guerrant, *in litt.* 1998). Guerrant (1992) sampled eight clusters and found a few plants that had seeds, but obvious embryos were not documented. Guerrant stated that *Fritillaria gentneri* may be sterile, that the plant is largely reproducing asexually, and that the sexual reproduction of the plant needs to be better documented.

#### Previous Federal Action

Federal actions on *Fritillaria gentneri* began as a result of section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975, and included *Fritillaria gentneri* as a threatened species. We published a notice in the **Federal Register** on July 1, 1975 (40 FR 27823) of our 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 our intention to review the status of the plant taxa named therein.

We initially included *Fritillaria gentneri* as a “category 2 candidate” in a Notice of Review published on December 15, 1980 (45 FR 82510). Category 2 candidate species were taxa for which data in our possession

indicated listing may be appropriate, but for which additional data on biological vulnerability and threats were needed to support a proposed rule. On September 30, 1993 (58 FR 51166), we published a Notice of Review upgrading this species to a category 1 status, meaning we had sufficient information on biological vulnerability and threats to support a proposal to list *Fritillaria gentneri* as an endangered or threatened species. Upon publication of the February 28, 1996, Notice of Review (61 FR 7605), we ceased using category designations and included *Fritillaria gentneri* as a candidate species. Candidate species are those for which we have on file sufficient information on biological vulnerability and threats to support proposals to list them as threatened or endangered species. We retained *Fritillaria gentneri* as a candidate species in the September 19, 1997, Review of Plant and Animal Taxa (62 FR 49398).

On March 23, 1998, we published in the **Federal Register** (63 FR 13819) a proposed rule to list *Fritillaria gentneri* as an endangered species. The processing of this final rule conforms with our Listing Priority Guidance published in the **Federal Register** on October 22, 1999 (64 FR 57114). The guidance clarifies the order in which we will process rulemakings. Highest priority is processing emergency listing rules for any species determined to face a significant and imminent risk to its well-being (Priority 1). Second priority (Priority 2) is processing final determinations on proposed additions to the lists of endangered and threatened wildlife and plants. Third priority is processing new proposals to add species to the lists. The processing of administrative petition findings (petitions filed under section 4 of the Act) is the fourth priority. The processing of critical habitat determinations (prudence and determinability decisions) and proposed or final designations of critical habitat will no longer be subject to prioritization under the Listing Priority Guidance. This final rule is a Priority 2 action and is being completed in accordance with the current Listing Priority Guidance. We have updated this rule to reflect any changes in information concerning distribution, status, and threats since the publication of the proposed rule.

#### Summary of Comments and Recommendations

In the March 23, 1998, proposed rule (63 FR 13819) and associated notifications, we requested all interested parties to submit factual reports or

information that might contribute to the development of a final listing decision. We contacted and requested comments from appropriate Federal and State agencies, county and city governments, scientific organizations, private land owners, industrial land owners, and other interested parties. Newspaper notices inviting public comments were published in the *Oregonian* (with statewide circulation) on May 1 and May 2, 1998.

During the comment period following the publication of the proposed rule, we received 18 written comments. Sixteen favored and two opposed the listing of *Fritillaria gentneri*. Several commenters provided information on the status of this plant at several sites and on threats, notably from *Centaurea solstitialis* (yellow star thistle) and herbicides used to control the thistle. The new information updated the information presented in the proposed rule and is incorporated into this final rule. Comments questioning or opposing the proposed rule have been grouped into issues for discussion.

**Issue 1:** One commenter opposed listing *Fritillaria gentneri* until a thorough search has been conducted for additional populations in order to get an accurate count of the total numbers of *Fritillaria gentneri*.

**Our Response:** The Act requires us to make listing decisions using the best available scientific and commercial data. Section 4 of the Act mandates that we consider the threats to the species based on the five listing factors (see the Summary of Factors Affecting the Species section of this rule). The information currently available is sufficiently complete and accurate and indicates that listing is appropriate. While more plants may exist, the range of *Fritillaria gentneri* is small, and the currently known number of flowering plants is extremely small. *Fritillaria gentneri* has been searched for by knowledgeable people for years, making it unlikely that a significant number of new *Fritillaria gentneri* are yet to be discovered. Because plants tend to suffer mass mortality from random environmental events (such as fires, landslides, or shading out by encroaching trees), plants are usually considered safe only when they occur in large numbers, usually thousands of individual plants. Finding even several hundred new plants would not greatly change the current status. Information submitted by 12 landowners during the comment period on red fritillaria plants that might be *Fritillaria gentneri* (as detailed in the "Background" section of this rule) did not confirm additional plants, although it would be worthwhile

to arrange field visits to the sites if the landowners are interested. The landowners, for the most part, indicated that they are protecting their plants. However, none of the landowners indicated that they were managing the habitat in such a manner as to slow or reverse the threat from shading of over-story trees as the forests mature. Without some sort of disturbance to create habitat within these oak woodlands, eventually *Fritillaria gentneri* will disappear as the forests mature. Thus, if additional occupied habitat is verified, it will probably be facing successional threats and would not reduce the need for listing *Fritillaria gentneri*.

**Issue 2:** One commenter opposed the listing because *Fritillaria gentneri* was already listed under the State of Oregon's Endangered Species Act. The commenter also questioned why the U.S. Fish and Wildlife Service is involved with plants and listing *Fritillaria gentneri*.

**Our Response:** We considered all the existing regulatory mechanisms applicable to the species *Fritillaria gentneri* on private, State, and Federal lands throughout its range. These issues are discussed in detail in this rule under the "Summary of Factors Affecting the Species" (Factor D) section of this rule. We conclude that existing regulatory mechanisms do not currently provide adequate protection for this plant. The Federal listing of this species will protect it from a variety of unauthorized activities including removal or reduction to possession from areas under Federal jurisdiction or in violation of a State law, including criminal trespass. The Federal Endangered Species Act provides protection to listed plant species when landowners seek Federal permits, funding, or Federal loans for a land development project or other activities that may affect the species. Section 7(a)(2) of the Act 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.

The Oregon Endangered Species Act directs the Oregon Department of Agriculture (ODA) to maintain a strong program to conserve and protect native plant species classified by the State as threatened or endangered. The ODA is able to regulate the import, export, or trafficking of State-listed plant species when they are in transit. However, the ODA's ability to protect plant populations is limited to "land owned or leased by the state, or for which the state holds a recorded easement."

Nothing in the Oregon Endangered Species Act is intended to require the owner of any commercial forest land or other private land or Federal agencies to take action to protect a threatened or endangered plant species on their lands. Thus, the protection provided by the State listing for *Fritillaria gentneri* extends only to those plant populations on State lands, which includes only 12 macro plots or less than 24 percent of the macro plots occupied by *Fritillaria gentneri*. As a result, *Fritillaria gentneri* occurring on private lands receives no protection from their State status as endangered. The only sites occupied by this plant that come under the protection of the Oregon Endangered Species Act are at the Log Town Cemetery on an Oregon Department of Transportation right-of-way, Southern Oregon University lands, and lands managed by the City of Jacksonville. Listing *Fritillaria gentneri* under the Federal Endangered Species Act provides protection to all occurrences of *Fritillaria gentneri*.

Additionally, the trade prohibitions and permit requirements of the Federal Endangered Species Act provide additional protection against interstate trade in this plant. 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, the Act prohibits malicious damage or destruction of endangered plants on Federal lands or the removal, cutting, digging up, damaging, or destroying of such plants in knowing violation of any State law or regulation, including criminal trespass law. Certain exceptions to the prohibitions apply to our agents and State conservation agencies.

As to why we are involved with plants and listing *Fritillaria gentneri*, Congress passed the Act to provide protection for animal and plant species that are threatened or endangered with becoming extinct. The Act mandates the Secretary of the Interior to determine whether any species is endangered or threatened. The Director of the Service is responsible to the Secretary of the Interior for the administration of the Act (16 U.S.C. §§ 1531–1544). Additional information about our involvement with plants can be found in the "Previous Federal Action" section of this rule.

## Peer Review

In accordance with our peer review policy published July 1, 1994 (59 FR 34270), we solicited the expert opinions of appropriate and independent specialists regarding pertinent scientific or commercial data relating to the biological and ecological information for *Fritillaria gentneri*. Comments provided by Richard Maudlin, Barbara Mumblo (a private botanical consultant in Southwest Oregon), Dr. Ed Guerrant (Conservation Director, the Berry Botanic Garden), and the Klamath Siskiyou Wildlands Center supported our position that *Fritillaria gentneri* was endangered, and their comments were incorporated into this final rule.

## Summary of Factors Affecting the Species

Section 4 of the Act and the regulations (50 CFR Part 424) that implement the listing provisions of the Act lay out the procedures for adding species to the Federal lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *Fritillaria gentneri* (Gentner's fritillary) (= Mission-bells) are as follows:

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

In the following discussion, the term "development" includes housing construction, such as driveway placement, lots for sale, cemetery expansion, trail maintenance, road widening, enlarging a landfill, power line maintenance, water system construction, and agricultural conversions.

*Fritillaria gentneri* is found only in the rural foothills of the Rogue and Illinois River valleys in Jackson and Josephine Counties, Oregon. Within this range, the plant occurs as lone individuals or small clusters of individuals sparsely distributed across the landscape. Together these individuals and clusters are thought to form either one single population of approximately 340 flowering plants or a few smaller populations and isolated individuals. As stated previously, this species was originally documented to occur in 53 locations (macro plots). Between 1941 and the present, the plant has been extirpated from 8 of 53 macro plots. Three locations, Grants Pass, Medford, and Murphy, were vague locations and have never been relocated since the original collections by Gentner (1941) and Gilkey (1951). We believe that the populations at these three

locations were probably destroyed by development. Since 1982, Kagan and Rolle documented construction for homes, schools, associated roads, driveways, and agricultural conversions that destroyed all the plants at five locations that include Lyman Mountain (Kagan 1982g and pers. comm. 1997; Rolle 1988f), Merlin (Kagan 1982a and pers. comm. 1997), Ramsey Road (Kagan 1982f and pers. comm. 1997), State Highway 238 (Gentner 1948, Kagan 1982c and pers. comm. 1997), and Winona (Kagan 1982b and pers. comm. 1997).

The threat of habitat loss to *Fritillaria gentneri* is evident when both the size and the status of the scattered clusters throughout the species' range are examined. Cluster sizes range from 1 plant to 100. Of the 45 macro plots currently occupied by *Fritillaria gentneri*, only 8 are in an area of habitat equal to or greater than 0.4 ha (1 ac). Many are in areas smaller than 0.04 ha (0.1 ac) (Service 1997). With such limited area, a small amount of disturbance could extirpate all of the plants in a local area.

Habitat loss is the main threat to this species. Habitat loss due to ongoing or future development may occur at 42 percent of the occupied sites (19 macro plots—all within the central core area). Ongoing development accounts for 13 percent (6 macro plots) of the anticipated habitat loss with all the development but Pelton Road being in the central core area. Future development may include loss of habitat for the other 29 percent (13) of the occupied sites, with all of this occurring within the central core area (U.S. Fish and Wildlife Service 1997).

Ongoing development is threatening *Fritillaria gentneri* in six locations. Rolle (1988b) noted that at Pelton Road, outside the core area, habitat was being destroyed as he was sampling the cluster. On that site visit, Rolle (1988b) reported 60 flowering plants and 200 nonflowering plants, noting that it was the best example of *Fritillaria gentneri* that he had seen. During his observation, he noted that brush was being piled upon the plants for a road-widening project. Of the 48 plants flagged, 23 individuals were missing when Rolle (1988d) returned to collect seeds. In 1990, Guerrant (1990) reported only 50 to 100 plants at the Pelton Road site. According to Wayne Rolle (U.S. Forest Service (Forest Service), Ashland, Oregon, pers. comm. 1997), one-quarter of the cluster has been destroyed as a result of road widening. It is not known what happened to the other missing plants. Within the core area, at the Jackson County Landfill, at least half of

the *Fritillaria gentneri* plants in one of the five sites at the dump were bulldozed as a result of road construction and dump expansion in 1988 (Rolle 1988d). Near the entrance to Jackson County Landfill, Rolle (1988a) reported four plants present. In 1988, Rolle (1988d) flagged three of these plants and reported that two of the plants were bulldozed. Guerrant (pers. comm. 1997) reported that the dump site is still expanding toward other *Fritillaria gentneri* plants, but the expansion had stopped just short of destroying the rest of the plants.

Future development is possible for about 13 locations (macro plots) of the species (29 percent of the total) from the central core area that includes plants growing at Bellinger Hill, Britt Grounds, Jacksonville Cemetery, Placer Hill Drive, and Sterling Creek Road. Rolle (pers. comm. 1997) stated that some of the Bellinger Hill plants occurred in a private backyard. At the time of Rolle's sighting, that section of the backyard was not maintained, therefore allowing *Fritillaria gentneri* to grow. The other plants were in an area where housing development was occurring (Rolle pers. comm. 1997). On Britt Grounds, 110 plants of *Fritillaria gentneri* were documented in 1993 (Tomlins 1993) on 39 ha (97 ac) of land managed by BLM or Southern Oregon University. Two development threats face the Britt Grounds plants, trail construction and construction of a city waterline. Trail construction will affect all of the plants, whereas the waterline construction will impact half of the plants. Maxxon (1985) reported that there were approximately 50 plants in the Jacksonville Cemetery area, about half of them (18 to 24 plants) on private land east of the northeast corner of the cemetery property. Kagan (pers. comm. 1997) reported that the city is currently developed up to the eastern side of the cemetery, and probably those 18 to 24 plants have been lost. The property on the eastern side of the cemetery, part of an 1851 land grant, has been divided into 2 to 4-ha (5 to 10-ac) parcels, and some homes have been built and more are planned where *Fritillaria gentneri* currently exists. One of these areas has already been excavated for a home site (Maudlin *in litt.* 1998). Highway 238 also is proposed to extend through the area where *Fritillaria gentneri* grows (Maudlin *in litt.* 1998). Within the cemetery proper, Maxxon (1985) mapped 12 plants growing on cemetery plots. As the cemetery expands, additional plants may be destroyed during excavation; at least eight plants mapped by Maxxon (1985) currently

grow on unused burial plots. West and uphill from the cemetery, Rolle (1988g) documented approximately 15 plants at scattered stations along the trail system. Any additional trail construction may destroy some of these plants. In 1988, Rolle (1988g) found six flowering plants of *Fritillaria gentneri* along Placer Hill Drive and flagged five of the plants. On returning, he discovered that a new driveway was scheduled to be constructed that would go through the Placer Hill Drive location (Rolle 1988d). In 1992, some plants remained on the site (Guerrant 1992), but today the property is for sale (Rolle, pers. comm. 1997). The property across the street was also for sale (Guerrant, pers. comm. 1997). Similarly, Rolle (pers. comm. 1997) reported that the Sterling Creek plants occur on 40.4 square m (less than 0.01 ac) and that this area is threatened by development. The most threatened areas are on private lands where development poses an immediate threat to the population. Of the 45 extant macro plots, 20 occur on private lands and are unlikely to persist over the long term.

Desirable habitat on public lands is still being removed. Joan Seevers (BLM, Medford, Oregon, pers. comm. 1997) confirmed that of the 13 sites containing plants on BLM lands, 7 were threatened with logging. Tomlins (1993) stated that salvage logging had disturbed some of the plants at Britt Grounds. Seevers (pers. comm. 1997) also reported that Britt Grounds and Sterling Mine ditch had trails near the cluster of plants. Hikers, bikers, and horseback riders all use the trails and have the potential to trample and pick the plants. At the Antioch Road 2 location, Henshel (1994c) noted that the plants were located on both sides of a dirt bike trail.

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

Many species of *Fritillaria* are cultivated. According to Gilkey (1951), *Fritillaria gentneri* was successfully grown in the Gentner family garden and the Gentners saw the species being used in flower arrangements. This native lily is quite attractive, and furthermore, the genus *Fritillaria* has many species (mostly from Eurasia) that are widely cultivated, including guinea flowers and crown imperial. "Bulb fanciers the world over worship at the feet of this captivating clan of lily-like plants" (Kruckeberg 1996). Kruckeberg also comments that "the collecting of bulbs can no longer be countenanced as fritillaries are fast disappearing from their native habitats," and he recommended propagation from seed.

The rarity of *Fritillaria gentneri* may attract horticulturists seeking to cultivate rare species. Furthermore, the viability of the seed set of *Fritillaria gentneri* is very poor, and the capsules tend to be eaten by wildlife before seed can mature (Rolle 1988d). Lack of viable seed increases the incentive for collectors to dig the bulbs. Twenty-two (43 percent) of the known sites had 3 or fewer individuals. Because the species occurs in small, isolated clusters, a collector could decimate an entire clump in one gathering, extirpating the plant from that area. Roadside populations of *Fritillaria gentneri* are especially vulnerable to collection. Kagan (1982d), Rolle (1988c; pers. comm. 1997), and Guerrant (pers. comm. 1997) documented that 40 percent of the total estimated number of plants (136) have a good potential for roadside collection. The plants were visible from the road at Logtown Cemetery, Paradise Ranch Road, Pelton Road, Placer Hill Drive, Poorman's Gulch, Sailor Gulch, Sterling Creek Road, and Wagon Trail Drive and, when flowering, could attract attention (Guerrant pers. comm. 1997). Collecting has been documented in Britt Grounds (Tomlins 1993, Seever pers. comm. 1997) along the trails. Disseminating specific, sensitive location records can encourage illegal collection (M. Bosch, Forest Service, *in litt.* 1997; B. Mumblo, *in litt.* 1998). Overcollection of other lilies such as *Lilium occidentale* (western lily), a federally listed endangered species (59 FR 42171), has been documented by Ballantyne (1980) and Schultz (1989).

#### *C. Disease or Predation*

*Fritillaria gentneri* plants suffer from both disease and predation, reducing their numbers and productivity. Secondary fungal infections were present to some degree at the Cady Road, Jacksonville Cemetery, Jackson County Dump, Pelton Road, Placer Hill Drive, and Wagon Trail Drive sites (Rolle 1988d). Many of the plants that were tagged for seed collection by Rolle had the capsules eaten by wildlife before the seed capsules matured (Rolle 1988d)—of the 14 plants tagged at Wagon Trail Drive, 9 plants had no capsules; at Cady Road, 4 of 4 flagged plants had the capsules bitten off; at the Jacksonville Cemetery, 6 of 6 flagged plants had no mature capsules found on any part of the plant; at Pelton Road, 19 of 48 flagged plants were knocked down, eaten, or did not develop; and at Placer Hill Drive, 1 of 5 flagged plants had the capsules bitten off.

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

In 1963, the protection of Oregon's natural botanical resources was initiated with the passage of the Oregon Wildflower Law (ORS 564.010–564.040). This law was designed to protect showy plants such as lilies, shooting stars, orchids, and rhododendrons from collection by horticulturists interested in these species' domestication. The law prohibits the collection of wildflowers from within 60.9 m (200 ft) of a State highway. The Oregon Wildflower Law carries minimal penalties and is rarely enforced. As a means of protecting *Fritillaria gentneri*, it has minimal effectiveness.

In 1987, Oregon Senate Bill 533 (ORS 564.100) was passed to augment the legislative actions available for the protection of the State's threatened and endangered species, both plant and animal. This bill, known as the Oregon Endangered Species Act, mandated responsibility for threatened and endangered plant species in Oregon to the ODA. The Oregon Endangered Species Act directs the ODA to maintain a strong program to conserve and protect native plant species threatened or endangered with extinction.

State-listed as endangered, *Fritillaria gentneri* receives protection on State-managed lands under the Oregon Endangered Species Act. Although the ODA is able to regulate the import, export, or trafficking of State-listed plant species (under ORS 564.120), their ability to protect plant populations is limited to State-owned or State-leased lands. Private land owners are not required to protect State-listed species. As a result, *Fritillaria gentneri* occurring on private lands receives no protection from its State status as endangered. The only sites with this plant that fall under protection of the Oregon Endangered Species Act are at the Log Town Cemetery on an Oregon Department of Transportation right-of-way, Southern Oregon University lands, and lands managed by the City of Jacksonville.

BLM manages lands occupied by *Fritillaria gentneri*. Although no conservation agreement has been developed with the BLM that specifically notes *Fritillaria gentneri*, the species was given some protection through a general conservation agreement that applies to all Federal candidate species. As noted in factor A above, however, activities on BLM lands threaten the plant.

*Fritillaria gentneri* is classified by the Oregon Natural Heritage Program as a G1 category species, which identifies

this species as one that is threatened with extinction throughout its entire range. This designation provides recognition but no protection.

There are several other regulations enacted by the State of Oregon that provide protective measures for federally listed threatened and endangered species. Oregon Administrative Rules (OAR), Chapter 340, Division 94 (OAR 340-094-0030) addresses location restrictions for solid waste and municipal solid waste landfills. OAR Chapter 340, Division 95 (OAR 340-095-0010) addresses location restrictions for disposal sites on nonmunicipal land other than municipal solid waste landfills. Both OAR 340-094-0030 and OAR 340-095-0010 state that no person shall establish, operate, expand or modify a landfill in a manner that will cause or contribute to the actual or attempted—(1) harming collecting, or killing of endangered or threatened species of plants, fish, or wildlife; (2) direct or indirect alteration of critical habitat that appreciably diminishes the likelihood of the survival and recovery of threatened or endangered species using that habitat. Five of the 45 macro plots (at least 27 plants) of *Fritillaria gentneri* would fall under the protective measures of OAR 340-094-0030.

OAR 141-089-0015 General Authorization for Certain Road Construction Projects provides protective measures by stating road construction activities (e.g., repairing, widening, replacing, realigning) shall not adversely affect State or Federal threatened or endangered species or their critical habitat. The population of *Fritillaria gentneri* along State highway 238 is covered by the protective measures of OAR 141-089-0015.

OAR 635-415-0030 Fish and Wildlife Habitat Mitigation Goals and Standards provides protection for "Habitat Category 1." "Habitat Category 1" is a State of Oregon classification for habitat that is of exceptional value for an evaluation species and is irreplaceable and unique; or that is essential habitat of any State of Oregon listed threatened or endangered species; or that is the critical habitat as defined in the Act of any federally listed threatened or endangered species. OAR 635-415-0030 states that the mitigation goal is no loss of either habitat units or habitat value and that the Oregon Department of Fish and Wildlife shall act to protect "Category 1" habitats by recommending or requiring—(1) avoidance of impacts through alternatives to proposed development action, or (2) no authorization of the proposed development action if impacts cannot be

avoided. Thirty-two macro plots of *Fritillaria gentneri* would be protected under this State law.

Despite being currently State-listed as endangered and coverage from other State regulations, populations of *Fritillaria gentneri* on private lands are still being destroyed. Privately held sites constitute a significant portion of this species' range and play a substantial role in its continued existence.

#### *E. Other Natural or Manmade Factors Affecting its Continued Existence.*

Fire suppression is causing *Fritillaria gentneri*'s preferred open oak woodland habitat to become more thickly wooded and less grassy, excluding the species. At the same time, the increase of homes in the area makes prescribed burning difficult. According to Rolle (pers. comm. 1997) and Kagan (pers. comm. 1997), *Fritillaria gentneri* grows best in forest openings. Closure of the forest canopy will shade the plants. The forest canopy at the Wagon Trail site is currently being closed by encroaching Douglas-fir and madrone, threatening the continued occupancy of this macro plot by its 14 *Fritillaria gentneri* plants (Rolle, pers. comm. 1997).

Oak woodland requires a frequent, low-intensity fire management regime to maintain the open canopy. Southwestern Oregon averages 500 dry lightning strikes a month during drought conditions in the summer, creating a natural fire frequency of every 12 to 15 years. As the area developed, 50 to 60 years of fire suppression ensued. This suppression essentially transformed the traditional oak woodlands with a grassy understory to oak woodlands with a shrub understory. With the current trend toward rural development, restoring fire to the habitat has now become increasingly difficult. Therefore, much of the habitat of *Fritillaria gentneri* has not been removed but has changed to densely closed woodland with a dry shrub understory. Prescribed fire would be a good tool in managing for *Fritillaria gentneri* on BLM lands. However, given that fire suppression will likely continue, the thickening shrub understories pose a threat to *Fritillaria gentneri* on both private and BLM lands.

Another threat to *Fritillaria gentneri* is the possibility of decreased vigor and viability due to individual plants being distributed as separated individuals or in clusters ranging in size only up to 100 plants. Small numbers increase the risk from random losses of plants, and small numbers combined with widely separated individuals increase the risk of random loss of genetic diversity owing to founder effects or inbreeding.

If a population suffers from inbreeding depression, then its viability may be compromised. The effects of inbreeding in populations have been used to recommend a general effective minimal viable population (MVP) of 50 individuals (Falk and Hoslinger 1991) to maintain genetic diversity. For long-term evolutionary flexibility, the authors recommend a MVP of 500. That means that any population below 50 is subject to inbreeding depression over the short-term and any population under 500 will suffer over the long-term. Even though the size at which a population begins to face severe inbreeding depression is still contested, the negative genetic effects of this phenomenon to a small population of 340 plants become difficult to ignore. Guerrant (pers. comm. 1997) stated that he sampled eight clusters of *Fritillaria gentneri* plants and did not find one embryo. He stated that the plants are probably sterile. The plant is largely reproducing asexually, which could be a result of the small population size.

With only 1 of the 45 sites containing 100 flowering individuals, 4 sites having 11 to 34 flowering individuals, and the remaining 40 sites having only 10 or fewer flowering individuals of *Fritillaria gentneri*, the threat of extinction due to naturally occurring demographic and environmental events reduces the viability of the species as a whole. Because most *Fritillaria gentneri* sites occupy small areas, naturally occurring environmental events could also play a role in extirpation. Small clusters can disappear with one environmental event, such as erosion. The sites are small and isolated from each other due to habitat fragmentation. This isolation could inhibit recolonization to other suitable areas and could result in a permanent loss of localized occurrences once they fall below a critical level.

Herbicide spraying could extirpate small, localized occurrences along roadsides. Approximately 29 percent (13) of the plant occurrences (macro plots) are reported along roadsides and could be affected or potentially extirpated by spraying or other roadside maintenance activities. In particular, herbicides could potentially be used to control *Centaurea solstitialis* (yellow star thistle), a noxious weed that is increasingly abundant in southwestern Oregon, often occurring on roadsides and brought in on equipment with new housing development to locations where *Fritillaria gentneri* occur or could occur (B. Mumblo in litt. 1998).

In developing this final rule, we have carefully assessed the best scientific and commercial information available



regarding the past, present, and future threats faced by this species. Based on this evaluation, we find that *Fritillaria gentneri* should be listed as endangered. This plant is found only in two counties, Jackson and Josephine, in southwestern Oregon. Habitat loss is the main threat to this species. Habitat loss due to ongoing or future development may occur at 42 percent (19) of the central core area's occupied sites. This taxon is threatened by residential development, agricultural activities, forestry activities, and road and trail improvement. Other threats include offroad vehicle use, collecting the species for gardens, disease, and predation. Small population size and limited distribution make this taxon particularly vulnerable to extinction from reduced reproductive vigor or from random environmental events. Because this taxon is in danger of extinction throughout all or a significant portion of its range, it meets the definition of endangered as defined by the Act. Therefore, the determination of endangered status for *Fritillaria gentneri* (Gentner's fritillary) is appropriate.

#### Critical Habitat

Critical habitat is defined in section 3(5)(A) of the Act, as amended, as: (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the provisions of section 4 of 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 that are necessary to bring the species to the point at which the measures provided pursuant to the Act are no longer necessary.

We are not at this time making a critical habitat determination for *Fritillaria gentneri*. The Final Listing Priority Guidance for FY 2000 (64 FR 57114) states, that the processing of critical habitat determinations (prudence and determinability decisions) and proposed or final designations of critical habitat "will no longer be subject to prioritization under Listing Priority Guidance. Critical habitat determinations, which were previously included in final listing rules published in the **Federal Register**, may now be processed separately, in which case stand-alone critical habitat

determinations will be published as notices in the **Federal Register**. We will undertake critical habitat determinations and designations during FY 2000 as allowed by our funding allocation for that year." As explained in detail in the Listing Priority Guidance, our listing budget is currently insufficient to allow us to immediately complete all of the listing actions required by the Act. Deferral of the critical habitat determination for *Fritillaria gentneri* will allow us to concentrate our limited resources on higher priority critical habitat and other listing actions, while allowing us to put in place protections needed for the conservation of *Fritillaria gentneri* without further delay. The proposed critical habitat determination for *Fritillaria gentneri* will be published in the **Federal Register** subsequent to this final rule.

#### 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 encourages and results in 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 of animals and 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 listed as endangered or threatened and with respect to its critical habitat, if any is 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 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 consultation with us. The principal Federal agency expected to have involvement with *Fritillaria gentneri* is the BLM, which manages many of the sites where this species occurs.

The Act and its implementing regulations set forth a series of general

prohibitions and exceptions that apply to all 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, the Act prohibits malicious damage or destruction of endangered plants on Federal lands or the removal, cutting, digging up, damaging, or destroying of such plants in knowing violation of any State law or regulation, including 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 for endangered plants also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plants under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. We anticipated that few trade permits would ever be sought or issued for *Fritillaria gentneri* because the species is not common in cultivation or in the wild.

Our policy, published in the **Federal Register** (59 FR 34272) on July 1, 1994, is to identify to the maximum extent practicable when a species is listed those activities that would or would not be a violation of section 9 of the Act. Such information clarifies the potential impacts of a species' listing on activities within its range.

We believe that, based on the best information available at this time, the following actions will not likely result in a violation of section 9, provided these activities are carried out in accordance with existing laws and regulations, including State laws and regulations, and permit requirements:

- (1) Activities authorized, funded, or carried out by Federal agencies (e.g., grazing management, agricultural conversions, flood and erosion control, residential development, recreational trail development, road construction, hazardous material containment and cleanup activities, prescribed burns, pesticide/herbicide application, construction or maintenance of pipelines or utility lines), when conducted in accordance with any consultation under section 7 of the Act;
- (2) Casual, dispersed human activities on foot or horseback (e.g., birding,



sightseeing, photography, camping, or hiking);

(3) Activities on private lands that do not require Federal authorization and do not involve Federal funding, such as grazing management, agricultural conversions, flood and erosion control, residential development, road construction, and pesticide/herbicide application when consistent with label restrictions;

(4) Residential landscape maintenance, including the clearing of vegetation around one's personal residence as a firebreak.

We believe that the following might potentially result in a violation of section 9; however, possible violations are not limited to these actions alone:

(1) Collection, damage, or destruction of *Fritillaria gentneri* on Federal lands without a Federal permit. *Fritillaria gentneri* occurs on BLM lands.

(2) Collection, damage, or destruction of this species on non-Federal land if conducted in knowing violation of Oregon State law or regulations, or in violation of Oregon State criminal trespass law. The Oregon State Endangered Species Act protects *Fritillaria gentneri* on State lands or rights-of-way and also prohibits import, export, or trafficking of this species.

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

Questions regarding whether specific activities will violate section 9 of the Act should be directed to the Field

Supervisor of our Oregon State Office (see **ADDRESSES** section). Requests for copies of the regulations for listed plants and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Permits Branch, 911 N.E. 11th Avenue, Portland, Oregon 97232-4181 (telephone 503/231-2063; facsimile 503/231-6243).

#### National Environmental Policy Act

We have determined that we do not need to prepare Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

#### Paperwork Reduction Act

This rule does not contain any information collection requirements for which Office of Management and Budget (OMB) approval is required under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An information collection related to the rule pertaining to permits for endangered and threatened species has OMB approval and is assigned clearance number 1018-0094. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. This rule does not alter that information collection requirement.

#### References

A complete list of all references cited in this rule, as well as others, is available upon request from our Oregon Fish and Wildlife Office (see **ADDRESSES** section).

Author. The primary author of this final rule is Andrew F. Robinson Jr., botanist, U.S. Fish and Wildlife Service, Oregon 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.

#### Final Regulation Promulgation

For the reasons outlined in the preamble, we 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 § 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							
*	*	*	*	*	*		*
<i>Fritillaria gentneri</i> .....	Gentner's fritillary ...	U.S.A. (OR) .....	Liliaceae .....	E	672	NA	NA
*	*	*	*	*	*		*

Dated: November 2, 1999.

**Jamie Rappaport Clark,**

Director, Fish and Wildlife Service.

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