there were about 210 fatalities to occupants of pickup cargo beds each year. The number of deaths each year shows remarkably little variation, beginning with 213 fatalities in 1983 and concluding with 211 fatalities in 1993. While the total size of the problem of injuries and fatalities to cargo bed occupants is small in the context of overall traffic safety (about one-half of one percent of annual motor vehicle fatalities), the relative constancy of the number over this decade suggests that it has not been much affected by the many safety improvements made to pickups during that decade, nor has it been much affected by the changes in personal behavior by vehicle occupants during that decade, such as significant increases in safety belt use by occupants and significant decreases in drunk and drugged driving. This suggests it may be appropriate for NHTSA to try a new approach specifically targeted to reduce injuries and deaths to passengers in cargo beds. NHTSA granted Ms. Slay's petition on January 25, 1995, to allow for a full and careful consideration of the issues raised.

However, the grant of the petition did not mean the agency endorsed Ms. Slay's suggested solution to the problem. The fatality data show that most of the fatalities in pickup cargo beds are teenagers or young adults aged 20–29. People in these age groups have traditionally been among the least receptive to safety warnings on labels. This information raises doubts about the effectiveness of a warning label as a solution to this problem.

Given all of this information, NHSTA sought a creative alternative to address this safety risk outside of the traditional regulatory process. NHTSA began by sending a letter to each of the pickup manufacturers asking for their reaction to Karen Slay's petition and her suggested solution to the problem. Although the manufacturers did not agree with labeling their trucks, they did agree with Ms. Slay that something ought to be done. All of the pickup manufacturers agreed to voluntarily include clear language in each pickup owner's manual warning against riding in beds. Chrysler, Ford, and General Motors, whose vehicles collectively comprise more than 86 percent of annual pickup sales in the U.S., went a step further. These three manufacturers agreed to provide a simple and uniform warning about the hazards of riding in cargo areas in the owner's manuals for each of their vehicles starting no later than the 1997 model year. All of the pickup manufacturers also committed to join in a broad-based effort to raise the public's awareness of this safety concern, including joining in promoting the adoption and enforcement of State laws restricting people from riding in pickup cargo beds and joining in a public education campaign on this subject.

Having this understanding with the pickup manufacturers was encouraging, but NHTSA believed it needed to involve more potential partners in this effort if it was to be successful. Accordingly, the agency contacted the National Automobile Dealers Association to see if they would join in the effort to address this problem. The dealers' organization agreed. Also, the National PTA had written a letter to NHTSA in support of Karen Slay's petition. NHTSA contacted the National PTA to see if it would agree to participate in an information campaign on the hazards of riding in cargo beds, and the National PTA agreed to do so.

NHTSA held a news conference on May 25, 1995 to announce this new cooperative effort to reduce injuries and deaths in pickup truck cargo beds. This cooperative effort will rely on the slogan ''Kids Aren't Cargo'' to raise the public's awareness about this safety risk. NHTSA has followed this up by including some ''Kids Aren't Cargo'' materials in the Campaign Safe and Sober materials made available to all of the States and by contacting national organizations other than the National PTA to see if they are interested in joining this effort.

Since manufacturers and others have already voluntarily committed to join in a broad-based effort to reduce the injuries and deaths to occupants of cargo beds, there is no reason to proceed with consideration of a regulatory requirement to achieve that same goal. Accordingly, the rulemaking action associated with the January 25, 1995 grant of Karen Slays's petition for rulemaking is hereby terminated.

This termination should not be misinterpreted. If at some point in the future it becomes clear that the ''Kids Aren't Cargo'' campaign has not achieved its purpose, the agency will evaluate all of its options to reduce injuries and deaths to occupants in cargo areas, including possible regulatory requirements. At this time, however, the agency believes the ''Kids Aren't Cargo'' campaign represents an approach that is more likely to address effectively this safety risk than a regulatory approach would be. Therefore, rulemaking action on the Slay petition is terminated.

The agency would like to close by expressing its appreciation to Ms. Slay for her petition and her work in this area. It is rare that an individual citizen with no previous involvement in the area of highway safety or dealing with State and Federal government can get a bill introduced in the State legislature and pass one of the two houses easily on its first hearing, and move the Federal government to put together a coalition of parties to try to address the issue on a National level. These accomplishments can be traced to a single citizen working out of her house with no funding, no list of members for whom she purported to speak—nothing more than her dedication to this issue and her ability to present clear, reasonable, and articulate arguments for why some action was necessary.

Issued on July 27, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–19024 Filed 8–1–95; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AD35

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Arctostaphylos Pallida (Pallid Manzanita), a Plant From the Northern Diablo Range of California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to list *Arctostaphylos pallida* (pallid manzanita) as a threatened species, pursuant to the Endangered Species Act of 1973, as amended (Act). This plant species is found only in the northern Diablo Range of California in Alameda and Contra Costa Counties. The species is threatened by shading and competition from native and non-native plants, fire suppression, habitat fragmentation, hybridization, disease, herbicide spraying, unauthorized tree cutting, inadequate regulatory mechanisms, and stochastic events by virtue of the small isolated nature of the remaining populations. This proposal, if made final, would extend Federal protection and recovery provisions afforded by the Act for this species.

DATES: Comments from all interested parties must be received by October 9, 1995. Public hearing requests must be received by September 25, 1995.

ADDRESSES: Comments and materials concerning this proposal should be sent

to the Field Supervisor, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E–1803, Sacramento, California 95825–1846. Comments and materials received and information used to support this proposal will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dale Pierce, Assistant Field Supervisor, Sacramento Field Office (see **ADDRESSES** section) (telephone 916/979–2710; facsimile 916/979–2723).

SUPPLEMENTARY INFORMATION:

Background

Arctostaphylos pallida (pallid manzanita) is found only in the northern Diablo Range of California. The Diablo Range is part of the inner South Coast Range of California. The Diablo Range extends in a northwest to southeast direction as a more or less continuous mountain chain, 32 to 48 kilometers (km) (20 to 30 miles (mi)) wide, for approximately 300 km (190 mi) from San Pablo Bay in central California to Polonio Pass in northeast San Luis Obispo County. The altitude of the Diablo Range varies from 600 to 1,280 meters (m) (2,000 to 4,200 feet (ft)) and is broken by four or five east to west passes. These passes divide the Diablo Range into several distinct units: Contra Costa Hills, Mt. Diablo, Mt. Hamilton Range, Panoche Hills, San Carlos Range, and Estrella Hills (Sharsmith 1982). *Arctostaphylos pallida* occurs in the Contra Costa Hills section of the Diablo Range.

Portions of the Diablo Range are thought to have been surrounded by marine embayments since the middle Miocene era, when modern flora and fauna were developing (Sharsmith 1982). Much of the surface of the Diablo Range is comprised of rock in the Franciscan series. The soils formed from Franciscan rock are believed to control partially the present distribution of plant species in the Diablo Range (Sharsmith 1982). Serpentine rock, which is a frequent component of Franciscan rock, yields a soil rich in heavy metals and low in the nutrients required for plant growth (Kruckeberg 1984). Because of the distinctive serpentine soil and the long exposure of this land mass to colonization by plants, a distinctive group of plant species has developed in the Diablo Range.

Alice Eastwood described *Arctostaphylos pallida* in 1933 from specimens collected in 1902 by W.W. Carruth in the ''East Oakland Hills.'' This area is believed to be Huckleberry Ridge in Alameda and Contra Costa Counties, California. *Arctostaphylos pallida* is a member of the *A. andersonii* complex, a group of *Arctostaphylos* species found in central coastal California. The species is considered by some taxonomists to be *A. andersonii* var. *pallida* Adams ex McMinn (Amme and Havlik 1987a); McMinn reduced the species to the varietal level in 1939. However, Wells (1993) treats the species as *A. pallida.*

Arctostaphylos pallida is an upright, non-burl-forming shrub in the heath family (Ericaceae). *Arctostaphylos pallida* grows from 2 to 4 m (6.5 to 13.0 ft) high or more with rough, gray or reddish bark. The twigs are bristly. The ovate to triangular leaves are bristly, strongly overlapping, and clasping; they are 2.5 to 4.5 centimeters (cm) (1.0 to 1.8 inches (in.)) long and 2 to 3 cm (0.8 to 1.2 in.) wide. The dense, white flowers are urn-shaped and 6 to 7 millimeters (mm) (0.2 to 0.3 in.) long. Flowering period is from December to March. *Arctostaphylos tomentosa* ssp. *crustacea* commonly co-occurs with *A. pallida* but is a burl-forming species with spreading leaves (Amme *et al.* no date, Wells 1993).

Arctostaphylos pallida continues to occupy its original range in Alameda and Contra Costa Counties, where it is known from approximately 13 populations. The two largest populations are located at Huckleberry Ridge, the type locality in Alameda and Contra Costa Counties, and at Sobrante Ridge in Contra Costa County. Several other small, natural and planted populations occur in Alameda and Contra Costa Counties. The species is found from 200 to 445 m (656 to 1,460 ft) in elevation, primarily on thin soils composed of chert and shale (Amme and Havlik 1987a). Generally, the plants are found in manzanita chaparral habitat that frequently is surrounded by oak woodlands and coastal scrub (Amme *et al.* no date). The two largest occurrences occupy an area of approximately 34 hectares (ha) (82 acres (ac)). These two populations are found in maritime chaparral, a habitat with mesic soil conditions and a maritime influence. Many of the smaller populations occur in coastal scrub (B. Olson, East Bay Chapter, California Native Plant Society (CNPS), *in litt.* 1994). *Arctostaphylos pallida* is threatened by shading and competition from other plant species, fire suppression, hybridization with other *Arctostaphylos* species, herbicide spraying, habitat fragmentation resulting from past housing and road construction, unauthorized tree cutting, fungal disease, inadequate regulatory mechanisms, and stochastic events.

Previous Federal Action

Federal government action on this species began as a result of section 12 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), 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, designated as House Document No. 94–51, was presented to Congress on January 9, 1975, and included *Arctostaphylos pallida* (as *Arctostaphylos andersonii* var. *pallida*) 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 thereby to review the status of the plant taxa named therein. The above taxon was included in the July 1, 1975, notice. On June 16, 1976, the Service published a proposal (42 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Arctostaphylos pallida* was included in the June 16, 1976, publication.

General comments received in relation to the 1976 proposal were summarized in the April 26, 1978, **Federal Register** (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 a December 10, 1979, notice (44 FR 70796), the Service withdrew the June 6, 1976, proposal along with four other proposals that had expired.

The Service published a Notice of Review for plants on December 15, 1980 (45 FR 82480). This notice included *Arctostaphylos pallida* as a Category 1 candidate species for Federal listing. Category 1 taxa are those for which the Service has on file sufficient information on biological vulnerability and threats to support preparation of listing proposals. On November 28, 1983, the Service published a supplement to the Notice of Review (48 FR 53640). This supplement changed this taxon from a Category 1 to a Category 2 candidate species. Category 2 taxa are those for which data in the Service's possession indicate listing is

possibly appropriate, but for which sufficient data on biological vulnerability and threats are not currently known or on file to support proposed rules. The plant notice was revised on September 27, 1985 (50 FR 39526). *Arctostaphylos pallida* was again included as a Category 2 candidate species. In the revision of the plant notice published on February 21, 1990 (55 FR 6184), *A. pallida* was included as a Category 1 candidate species. In the revision of the plant notice published on September 30, 1993 (58 FR 51144), this category remained unchanged.

Section 4(b)(3)(B) of the Act requires the Secretary to make findings on petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Arctostaphylos pallida* because the 1975 Smithsonian report had been accepted as a petition. On October 13, 1982, the Service found that the petitioned listing of this species was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled annually, pursuant to section 4(b)(3)(C)(i) of the Act. The finding was reviewed in October of 1983 through 1992. In 1993, the Service found that the petitioned listing of *Arctostaphylos pallida* was again warranted but precluded by other higher priority listing actions. Publication of this proposal constitutes the final finding for the petitioned action for this species.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act (Act) 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 endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Arctostaphylos pallida* Eastw. (pallid manzanita) are as follows:

A. *The present or threatened destruction, modification, or curtailment of their habitat or range.* The current range of *Arctostaphylos pallida* is unchanged from what was known to exist at the time the species was described in 1933; however, the present populations of this species are thought to be smaller due to habitat fragmentation by urbanization (B. Olson, CNPS, *in litt.* 1994). The distribution of *A. pallida* consists of 2 large populations and approximately 11 smaller populations in Alameda and Contra Costa Counties, California. Both large populations occur on lands owned by the East Bay Regional Park District (EBRPD) (Amme and Havlik 1987b) with the smaller populations occurring on other park lands or on privately owned land (B. Olson, *in litt.* 1994). Up to 50 percent of the original *A. pallida* population on Huckleberry Ridge, which occurs in both Alameda and Contra Costa Counties, has been developed for housing or is privately owned. This residential development has eliminated a large number of *A. pallida* plants and fragmented and reduced the amount of habitat at this site (Amme and Havlik 1987b). Splitting the habitat into smaller, more isolated units has and may further alter the physical environment of the habitat, changing the amount of incoming solar radiation, water, wind, or nutrients for the remnant vegetation (Saunders *et al.* 1991). In addition, a higher proportion of these fragmented natural areas is subject to influences of external factors (e.g., invasion of non-native plants, foot traffic, and increased erosion) that disrupt natural ecosystem processes.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Although this species is not known to be sought after by collectors, *A. pallida* is commercially cultivated (Wells 1993). Many members of this genus are considered desirable for landscape use and are collected for cultivation. Overutilization is not currently known to be a threat to this species, but unrestricted collecting for scientific or horticultural purposes or excessive visits by individuals interested in seeing rare plants could result from increased publicity as a result of this proposal.

C. *Disease or predation.* Approximately 50 percent of the Huckleberry Ridge population of *Arctostaphylos pallida* was affected by a fungal infection in the 1980's that attacked the roots of the plants, causing branch and stem dieback (Amme and Havlik 1987a, CDFG 1987). This population remains in poor condition (Amme and Havlik 1987a). If the wet, cold weather conditions that induced the fungal infection are repeated, another infection could occur, resulting in reduced vigor of the population (D. Amme, pers. comm. 1994).

D. *The inadequacy of existing regulatory mechanisms.* The State of California Fish and Game Commission has listed *Arctostaphylos pallida* as an endangered species under the California Endangered Species Act (chapter 1.5 § 2050 *et seq.* of the California Fish and Game Code, and title 14 California Code of Regulations 670.2). Listing by the State of California requires individuals to obtain a memorandum of understanding with the California Department of Fish and Game (CDFG) to possess or ''take'' a listed species. Although the ''take'' of State-listed plants is prohibited (California Native Plant Protection Act, chapter 10, division 2, § 1908 and California Endangered Species Act, chapter 1.5, division 3, § 2080), State law exempts the taking of such plants via habitat modification or land use changes by the owner. After CDFG notifies a landowner that a State-listed plant grows on his or her property, State law only requires that the landowner notify the agency ''at least 10 days in advance of changing the land use to allow salvage of such a plant'' (Native Plant Protection Act, Fish and Game Code, chapter 10, § 1900 *et seq.*).

The California Environmental Quality Act (CEQA) requires 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.'' Species that are eligible for listing as rare, threatened, or endangered but are not so listed are given the same protection as those species that are officially listed with the State or Federal governments. 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 endangered species. Protection of listed species through CEQA is, therefore, dependent upon the discretion of the lead agency.

CDFG and EBRPD jointly developed the Alameda Manzanita Management Plan in 1987. This plan has not, however, been adopted completely. The mission of the plan was to determine and implement management activities that would improve the condition of the species and help in its recovery (Amme

and Havlik 1987b). Currently, EBRPD is reducing the amount of flammable dead plant material in the Huckleberry Ridge population (E. Leong, EBRPD, pers. comm. 1994). The reduction in plant litter, in turn, has helped to stimulate germination of the species (D. Amme, pers. comm. 1994).

E. *Other natural or manmade factors affecting their continued existence.* Fragmentation of *Arctostaphylos pallida* habitat caused by residential development at Huckleberry Ridge has also resulted in introduced exotic landscape and weedy plant species that compete with the remnant population (Amme and Havlik 1987b). Although no current residential construction threatens the remaining Huckleberry Ridge populations of *A. pallida*, the populations of fewer than 10 plants in this area are threatened by stochastic events due to the small number of plants in combination with competition with aggressive plant species and loss of habitat from past urbanization. These small populations are threatened by shading from planted eucalyptus (*Eucalyptus* sp.), Monterey pines (*Pinus radiata*), and cypresses (*Cupressus* sp.) and by competition with aggressive non-native plant species including French broom (*Cytisus monspessulanus*), periwinkle (*Vinca major*), and German ivy (*Senecio mikanioides*) (Amme *et al.* no date).

The genetic integrity of *Arctostaphylos pallida* is threatened by hybridization resulting from the introduction of other species of *Arctostaphylos* into the vicinity of *A. pallida* populations (D. Amme, pers. comm. 1994). At least three other species of *Arctostaphylos* have been used for landscaping on Manzanita Way, a road that borders the Huckleberry Ridge Preserve. Hybridization of *A. pallida* with at least two other species is known to have occurred (Amme and Havlik 1987a). Hybridization could result in a hybrid manzanita swarm taking the place of *A. pallida* (Amme and Havlik 1987b, Amme *et al.* no date).

Alteration of the natural fire regime threatens *Arctostaphylos pallida* by inhibiting seed germination and nutrient recycling that occurs naturally after fires. Fires are currently suppressed on Huckleberry Ridge and Sobrante Ridge to protect the surrounding residential areas (D. Amme, pers. comm. 1994; A. Olivera, Park Supervisor, Sobrante Ridge Preserve, EBRPD, pers. comm. 1994). For non-burl-forming manzanitas such as *A. pallida,* fire is a necessary part of reproduction (Keeley 1992). Following fire or other disturbance, regeneration occurs from seed rather than from burls.

The accumulated leaf and bark litter, fallen fruits, and roots of *Arctostaphylos* species, however, have a self-inhibitory effect on seed germination (Amme and Havlik 1987b). Fire is believed to remove these toxic materials and promote subsequent germination of *Arctostaphylos* and other herbs and shrubs (Amme *et al.* no date). Fire also is necessary to the species to recycle limited nutrients in the soil (Amme and Havlik 1987b).

The roadside spraying of herbicides has had negative effects on regeneration of *Arctostaphylos pallida* along Skyline Boulevard (Amme and Havlik 1987a). Unauthorized tree cutting also poses a threat to *A. pallida.* At least two mature *A. pallida* plants have been killed by unauthorized cutting of eucalyptus trees, for unknown purposes, that subsequently fell on the *A. pallida* plants (Amme and Havlik 1987b).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by *Arctostaphylos pallida* in determining to propose this rule. This species is not now in immediate danger of extinction throughout all or a significant portion of its range. *Arctostaphylos pallida* exists as 2 major and 11 small occurrences and is located almost entirely on EBRPD property. The largest occurrences of *A. pallida* are protected from habitat loss resulting from urbanization or land use conversion. However, *A. pallida* is threatened by shading and competition from native and non-native plant species, fire suppression, hybridization, herbicide spraying, disease, tree cutting, habitat fragmentation resulting from past urbanization, stochastic events, and inadequate regulatory mechanisms.

Although not in immediate danger of extinction at this time, *Arctostaphylos pallida* is likely to become an endangered species in the foreseeable future if the present threats persist and population declines continue. As a result, the preferred action is to list *Arctostaphylos pallida* as a threatened species. Critical habitat is not being proposed for this taxon at this time, as 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 consideration 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 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 listed. The Service finds that designation of critical habitat is not prudent for this species at this time. 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.

Arctostaphylos pallida faces anthropogenic threats (see Factors A and E in ''Summary of Factors Affecting the Species'') and occurs entirely on non-Federal land. All of the 13 occurrences of *A. pallida* are located near or adjacent to residential areas and public roads. The publication of precise maps and descriptions of critical habitat in the **Federal Register** would make this plant vulnerable to incidents of vandalism and, therefore, could contribute to the decline of the species. Although this species is not known to be sought after by collectors, *A. pallida* is commercially cultivated (Wells 1993). Many members of this genus are considered desirable for landscape use and are collected for cultivation. The desirability and accessibility of the species, therefore, could make the plants subject to collection if their precise location was publicized.

In addition, critical habitat designation for the species is not prudent due to lack of benefit. At present, all known populations occur on non-Federal land, with no Federal action, authorization, licensing, or funding currently occurring on these lands. Due to the small, fragmented populations of this species, any future Federal actions, authorizations, or funded projects that would appreciably diminish the value of the known habitat for the survival and recovery of the species may also jeopardize its continued existence. A jeopardy opinion would require formal agency

consultation with the Service on virtually any federally-related project. Therefore, the Service finds that designation of critical habitat for this plant is not prudent at this time, because such designation would likely provide no benefit beyond that the species would receive by virtue of its designation as a threatened species. Further discussion of jeopardy opinions and consultation is included in the following section.

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 private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the State and requires that recovery plans be developed 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 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 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 consultation with the Service.

None of the populations of *Arctostaphylos pallida* occur on Federal lands; however, some populations occur on protected non-Federal lands. The EBRPD owns and manages the land where both major populations of *A. pallida* occur. The EBRPD and CDFG jointly developed the Alameda Manzanita Management Plan in 1987. Although this plan was not adopted by Alameda or Contra Costa County governments, portions of the plan are in use by the EBRPD where the species occurs (D. Amme, pers. comm. 1944; Ed Leong, EBRPD, pers. comm. 1994).

Listing this plant species would necessitate development of a recovery plan. Such a plan would bring together both State and Federal efforts for conservation of the plant. The plan would establish a framework for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan would set recovery priorities and estimate costs of various tasks necessary to accomplish them. It also would describe site-specific management actions necessary to achieve conservation and survival of the plant species. Additionally, pursuant to section 6 of the Act, the Service would be able to grant funds to the State for management actions promoting the protection and recovery of the species.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all threatened species. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, 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 on 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. Section 4(d) of the Act allows for the provision of such protection to threatened species through regulation. The protection may apply to this species in the future if regulations are promulgated. Seeds from cultivated specimens of threatened plants are exempt from these prohibitions provided that their containers are marked ''Of Cultivated Origin.'' Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened plants under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. For threatened plants, permits are also available for botanical or horticultural exhibition, education purposes, or special purposes consistent with the purposes of the Act. It is anticipated that few trade permits would ever be sought or issued because the species is not common in the wild.

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 a species is listed 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 this listing on proposed and ongoing activities within the species' range. Collection, damage, or destruction of listed species on Federal lands is prohibited, although in appropriate cases a Federal endangered species permit may be issued to allow collection. *Arctostaphylos pallida* is not known to occur on any Federal lands; however, such activities on non-Federal lands would constitute a violation of section 9, if conducted in knowing violation of State law or regulations or in violation of State criminal trespass law. The Service is not aware of any otherwise lawful activities being conducted or proposed by the public that would be affected by this listing and result in a violation of section 9. Questions regarding whether specific activities would constitute a violation of section 9 should be directed to the Field Supervisor of the Service's Sacramento Field Office (see **ADDRESSES** section). 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, Ecological Services, Endangered Species Permits, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (telephone 503/231–2063; facsimile 503/231–6243).

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 particularly are sought concerning:

(1) Biological, commercial, or other relevant data concerning any threat (or lack thereof) to *Arctostaphylos pallida*;

(2) The location of any additional populations of this species 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 the species; and

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

The Service specifically solicits expert opinion from independent specialists regarding pertinent scientific or commercial data and assumptions relating to taxonomy, population models, and supportive biological and ecological information.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received by September 25, 1995. Such requests must be made in writing and be addressed to the Field Supervisor, Sacramento Field Office (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments or 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).

References Cited

A complete list of all references cited herein is available upon request from the Field Supervisor, Sacramento Field Office (see **ADDRESSES** section).

Author

The primary author of this proposed rule is Elizabeth Warne, Sacramento Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and 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. Section 17.12(h) is amended by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants, to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family name	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*		*
Arctostaphylos pallida.	Pallid manzanita	U.S.A. (CA)	Ericaceae—Heath .	T	NA	NA	
*	*	*	*	*	*		*

Dated: July 5, 1995.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 95–18813 Filed 8–1–95; 8:45 am]

BILLING CODE 4310–55–P

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50 CFR Part 17

RIN 1018–AD36

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Nine Plants from the Grasslands or Mesic Areas of the Central Coast of California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to list *Alopecurus aequalis* var. *sonomensis* (Sonoma alopecurus), *Astragalus clarianus* (Clara Hunt's milkvetch), *Carex albida* (white sedge), *Clarkia imbricata* (Vine Hill clarkia), *Lilium pardalinum* ssp. *pitkinense* (Pitkin Marsh lily), *Plagiobothrys strictus* (Calistoga allocarya), *Poa napensis* (Napa bluegrass), *Sidalcea oregana* ssp. *valida* (Kenwood marsh checkermallow), and *Trifolium amoenum* (showy Indian clover) as endangered pursuant to the Endangered Species Act of 1973, as amended (Act). These nine species grow in a variety of habitats including valley grasslands, meadows, freshwater marshes, seeps, and broad-leaf upland forests in Marin, Napa, and Sonoma counties on the central coast of California. Habitat loss and degradation, competition from aggressive plant species, elimination through plant community succession, grazing, inadequate regulatory mechanisms, collection for horticultural use, and hydrological modifications to wetland areas threaten the continued existence of these plants. This proposal, if made final, would implement the Federal protection and recovery provisions afforded by the Act for these plants.

DATES: Comments from all interested parties must be received by October 9, 1995. Public hearing requests must be received by September 25, 1995.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Field Office, 2800 Cottage Way, Room E–1803, Sacramento, California 95825–1846. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dale Pierce, Assistant Field Supervisor, Sacramento Field Office (see **ADDRESSES** section) (telephone 916/979–2710; facsimile 916/979–2723).

SUPPLEMENTARY INFORMATION:

Background

Populations of the nine plant species in this proposed rule are found in Sonoma County and east as far as Napa Valley, California. *Alopecurus aequalis*