1309.14, Information Requirements Handbook.

6. Revise §§ 200.7 and 200.8 to read as follows:

§ 200.7 Request for records.

Requests for records and the processing of those records are governed by the rules at 7 CFR 1.6. Agency officials are authorized to receive and act on requests for records as follows:

(a) The Regional Forester, Regional Special Agent in Charge, Research Station Director, and Area Director at the field locations and addresses listed in § 200.2; the Director of Law Enforcement and Investigations; and the Deputy Chief for the program area involved, located in Washington, DC, are authorized to receive requests for such records, to make determinations regarding whether records exist, and to grant or deny requests for records exempt from disclosure under the provisions of 5 U.S.C. 552(b).

(b) Each of the officials listed in paragraph (a) of this section also is authorized to take the following actions:

(1) Extend the 10-day administrative deadline for reply pursuant to 7 CFR 1.14;

(2) Make discretionary releases pursuant to 7 CFR 1.17(b) of records exempt from mandatory disclosure;

(3) Deny records pursuant to 5 U.S.C. 552(b); and

(4) Make determinations regarding the charges of fees pursuant to 7 CFR 1.8(a).

§ 200.8 Appeals.

(a) Appeals from denials of requests submitted under § 200.7 shall be submitted in accordance with 7 CFR 1.6(e) of the Chief, Forest Service, U.S. Department of Agriculture, Auditors Building, 14th and Independence Avenue, SW., P.O. Box 96090, Washington, DC 20090–6090.

(b) The Chief, or other official to whom such authority is delegated, shall determine whether to grant or deny the appeal and make all necessary determinations relating to an extension of the 20-day administrative deadline for reply pursuant to 7 CFR 1.14, discretionary release pursuant to 7 CFR 1.17(b) of records exempt from mandatory disclosure under 5 U.S.C. 552(b), and charging the appropriate fees.

Dated: June 11, 1997.

Ronald E. Stewart,

Acting Chief.

[FR Doc. 97–16011 Filed 6–18–97; 8:45 am]

BILLING CODE 3410–11–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 95–19; DA 97–1212]

Authorization Procedures for Digital Devices

AGENCY: Federal Communications Commission.

ACTION: Final rule; delay of effective date.

SUMMARY: This action delays the effective date of the transition provision of § 15.37(g) by 90 days from June 19, 1997, to September 17, 1997. The Commission received three Petitions for Reconsideration filed by the Information Technology Industry Council, Hewlett-Packard Company, and Intel Corporation. The extension will permit the Commission to act on the petitions and should allow manufacturers sufficient time to implement any changes to the rules.

EFFECTIVE DATE: The effective date for the amendment to § 15.37 published June 19, 1996, 61 FR 31049, is delayed until September 17, 1997.

FOR FURTHER INFORMATION CONTACT: Anthony Serafini at (202) 418–2456 or Neal McNeil (202) 418–2408.

SUPPLEMENTARY INFORMATION: In ET Docket 95–19, DA 97–1212, the Commission adopted and released an Order on June 10, 1997, extending the transition provision of § 15.37(g) of the rules. By Report and Order , 61 FR 31044, June 19, 1996, the Commission set an effective date of June 19, 1997, as the transition provision of § 15.37(g) of the rules. This action extends the effective date of the transition provision of § 15.37(g) by 90 days from June 19, 1997 to September 17, 1997. Section 15.37(g) requires that the manufacture and importation of Central Processing Unit (CPU) boards and power supplies designed to be used with personal computers, cease on or before June 19, 1997, unless these products have been authorized under a Declaration of Conformity or a grant of certification. The Commission received three Petitions for Reconsideration filed by the Information Technology Industry Council, Hewlett-Packard Company, and Intel Corporation in the above captioned matter. The Commission expects to act on these petitions in the near future. We recognize that manufacturers are concerned about finalizing their designs until the issues raised in the petitions are resolved. An extension of 90 days will permit the Commission to act on the petitions and should allow manufacturers sufficient time to implement any changes to the rules. Accordingly, It is Ordered, that the effective date of § 15.37(g) is extended to September 17, 1997.

This action is taken pursuant to authority found in sections 4 (i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and 303; and pursuant to 0.31 and 0.241 of the Commission's Rules, 47 CFR 0.31 and 0.241. For further information contact the Office of Engineering and Technology, Anthony Serafini at (202) 418–2456 or Neal McNeil (202) 418–2408.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–16052 Filed 6–18–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC98

Endangered and Threatened Wildlife and Plants; Endangered Status for the Plant Lessingia Germanorum (San Francisco Lessingia) From California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines endangered status pursuant to the Endangered Species Act of 1973, as amended (Act) for *Lessingia germanorum* (San Francisco lessingia), a plant from the San Francisco peninsula of California. *L. germanorum* occurs in central dune scrub habitats. It is known from five sites on the Presidio in San Francisco County, and one site on San Bruno Mountain in San Mateo County, California. This taxon has been affected by and is endangered by competition from invasive alien plants, shading by alien and native plants, urban development, bulldozing, sand quarrying, fertilizer-contaminated run-off, habitat damage and trampling by pedestrians, bicycles, and off-road vehicles, and other human activities. Because of its small population size and extremely restricted distribution, *L. germanorum* is also subject to an increased risk of extinction from natural events. This rule implements Federal protection and provisions provided by the Act. A notice of withdrawal of the proposal to list *Arctostaphylos*

imbricata (San Bruno Mountain manzanita), which was proposed for listing along with *L. germanorum*, is published concurrently with this notice.

EFFECTIVE DATE: July 21, 1997.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the Sacramento Field Office, U.S. Fish and Wildlife Service, 3310 El Camino Avenue, Sacramento, California 95821–6340.

FOR FURTHER INFORMATION CONTACT: Kirsten Tarp, Sacramento Field Office at the above address or by telephone at 916–979–2120.

SUPPLEMENTARY INFORMATION:

Background

Lessingia germanorum (San Francisco lessingia) is endemic to the northern San Francisco peninsula in California where it is found within central dune scrub habitats. Natural habitats of the northern San Francisco peninsula have undergone extensive change as a result of human activities. The northern part of the San Francisco peninsula is highly urbanized. By 1984, over 90 percent of the northern peninsula's natural habitats had been disturbed or eliminated (Orsak and Schooley 1984). Urbanization has eliminated *L. germanorum* from part of its range, and intensive commercial and residential development are ongoing. Urban development has also fragmented the remaining habitats for this plant. Habitat fragmentation increases the risk of extinction due to a natural event such as a pest or disease outbreak or reproductive failure (populations of annual species especially are affected by reproductive failure). Human activities such as bulldozing, sand quarrying, fertilizer use, and pedestrian, bicycle, and off-road vehicle traffic also threaten the few remaining occurrences of this plant.

Lessingia germanorum was described by Adelbert von Chamisso in 1829, who first collected it in 1816 on the sand hills of San Francisco, California (Howell 1929). Chamisso named it in honor of the Lessings, a German family of scientists and authors. Howell (1929) recognized 11 varieties of *L. germanorum*. Under the rules for botanical nomenclature, when a new subspecies is described for a species not previously divided into infraspecific taxa, an autonym (an automatically created name) is created (i.e., *L. germanorum* var. *germanorum*). Howell distinguished *L. germanorum* var. *germanorum* from the other varieties by the presence of few glands and by the absence of either odorous or bitter glandular secretions. Other treatments (Ferris 1959, Munz and Keck 1968) also recognized varieties of *L. germanorum*. Currently, *L. germanorum* is recognized as a distinct species (Lane 1993).

Lessingia germanorum is a slender annual of the aster family (Asteraceae) with diffusely branched stems 10 to 30 centimeters (4 to 12 inches) high. The leaves and stems are glandless and covered with grayish, loosely interwoven hairs. Tubular, lemon-yellow, disc flowers with a brownish or purplish band are clustered into heads that are solitary at the end of branchlets. The seeds, which are attached to a crown of hairlike bristles, are light and easily carried by the wind. *L. germanorum* typically flowers between August and November.

Historically, *Lessingia germanorum* occurred within central dune scrub habitats throughout the San Francisco peninsula. *L. germanorum* is currently restricted to the Presidio area of the San Francisco peninsula (five occurrences), and near the base of San Bruno Mountain (one occurrence). *L. germanorum* grows on remnant sand dunes and sand terraces in open areas with blowing sand (Susan Smith, Yerba Buena Chapter, California Native Plant Society, pers. comm. 1992), at an elevation range between 24 to 91 meters (80 to 300 feet). It is associated with *Chorizanthe cuspidata* (San Francisco spine flower), *Lotus scoparius* (California broom), and *Lupinus arboreus* (yellow bush lupine) or *Lupinus chamissonis* (Chamisso's bush lupine). Of the five small populations at the Presidio, one was established after approximately 7.6 cubic meters (10 cubic yards) of sand was removed from the site of another population for use on the Presidio golf course. The San Bruno Mountain population was discovered in 1989. The total area of all known populations is less than 0.8 hectares (2 acres) (Terri Thomas, Golden Gate National Recreation Area, pers. comm. 1993; Paul Reeberg, National Park Service, pers. comm. 1993). The number of individuals of *L. germanorum* varies from year to year, but from 1980 to 1989 the annual total on the Presidio was less than 1,500 (California Department of Fish and Game (CDFG) 1989). The population on San Bruno Mountain is estimated at 1,600 to 1,800 individuals (Paul Reeberg, pers. comm. 1993). Populations within the Presidio are managed by the National Park Service. The population on San Bruno Mountain is jointly owned by Daly City and a private landowner (Annemarie Quevedo, Assistant Planner for Daly City, *in litt.* 1992).

The Presidio populations are threatened by competition from invasive alien plants, shading by alien and native shrubs and trees, bulldozing, sand quarrying, trampling by pedestrians, and other human activities (CDFG 1989; California Natural Diversity Database (CNDDB) 1994; Susan Smith, pers. comm. 1992; Paul Reeberg, pers. comm. 1993; Terri Thomas, pers. comm. 1993). The population on San Bruno Mountain is threatened by urbanization, trampling, competition from invasive alien plants, bulldozing, and fertilizer-contaminated run-off (Thomas Reid Associates, *in litt.* 1991; Susan Smith, pers. comm. 1992; Paul Reeberg, pers. comm. 1993).

Previous Federal Action

On December 15, 1980, the Service published in the **Federal Register** an updated Notice of Review for plants (45 FR 82480) which included *Lessingia germanorum* (as *L. germanorum* var. *germanorum*) as a category 1 candidate for Federal listing. Category 1 taxa were formerly defined as those taxa for which the Service had on file sufficient information on status and threats to support issuance of a listing proposal. On November 28, 1983, the Service published in the **Federal Register** a supplement to the Notice of Review (48 FR 53640) which changed *L. germanorum* var. *germanorum* from a category 1 to a category 2 candidate. Category 2 taxa were formerly defined as those taxa for which data in the Service's possession indicated listing was possibly appropriate, but for which sufficient data on status and threats was not currently known or on file to support proposed rules. The plant notice was revised again on September 27, 1985 (50 FR 39526), February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51144). In these three notices *L. germanorum* var. *germanorum* was included as a category 1 candidate.

Mr. Brian O'Neill, General Superintendent of the Golden Gate National Recreation Area, petitioned the Service to emergency list *Lessingia germanorum* as an endangered species on May 28, 1991. Although the Service did not emergency list *L. germanorum*, it did publish a 90-day finding in the **Federal Register** on August 19, 1992 (57 FR 37513) that substantial information had been presented indicating that listing may be warranted. Section 4(b)(3)(B) of the Act requires the Secretary to make findings on petitions found to present substantial information indicating that the petitioned action may be warranted within 12 months of their receipt. The Service conducted a

status review and determined that the petitioned action was warranted. A proposal to list *L. germanorum* as endangered and *Arctostaphylos imbricata* as threatened was published on October 4, 1994 (59 FR 50550). Publication of the proposed rule constituted the final finding for the petitioned action.

Based upon new information received since publishing the proposed rule, the proposed listing of *Arctostaphylos imbricata* has been withdrawn by the Service as announced in a separate **Federal Register** notice published concurrently with this notice.

The processing of this final listing rule conforms with the Service's final listing priority guidance published on December 5, 1996 (61 FR 64475). The guidance clarifies the order in which the Service will process rulemakings following two related events, the lifting, on April 26, 1996, of the moratorium on final listings imposed on April 10, 1995 (Pub. L. 104–6) and the restoration of significant funding for listing through passage of the omnibus budget reconciliation law on April 26, 1996, following severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996. The guidance calls for giving highest priority to handling emergency situations (Tier 1) and second highest priority (Tier 2) to resolving the listing status of the outstanding proposed listings. This rule falls under Tier 2.

Summary of Comments and Recommendations

In the October 4, 1994, proposed rule and associated notifications, the Service requested all interested parties to submit factual reports or information that would contribute to the development of a final decision document. The Service contacted appropriate Federal and State agencies, county and city governments, scientific organizations, and other interested parties and requested their comments. In accordance with policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), the Service solicited comments from three appropriate and independent specialists regarding pertinent scientific or commercial data and assumptions relating to the proposed rule. A newspaper notice of the proposed rule was published in the *San Francisco Chronicle* on October 19, 1994, which invited general public comment. A 60-day comment period closed on December 4, 1994.

The Service received eight letters of comment. No requests for a public hearing were received. Although the proposed rule solicited comments on proposals to list both *Arctostaphylos imbricata* and *Lessingia germanorum*, only comments pertaining to *L. germanorum* are addressed here. Comments pertaining to *A. imbricata* are addressed in a separate **Federal Register** notice published concurrently with this notice.

All commenters supported the listing of *Lessingia germanorum*. One commenter indicated that designation of critical habitat would aid in protection of rare plants. The Service has determined that designation of critical habitat would not provide additional benefit for *L. germanorum*. The reasons for this determination are discussed in the ''Critical Habitat'' section of this notice.

Two of the three independent and appropriate specialists responded to the solicitation for independent review. One reviewer found no errors of fact in the proposed rule, and further commented that *Lessingia germanorum* is dependent on a very fragile habitat and is easily disturbed or driven to extirpation by human activities that compact or erode the soil. This reviewer considered *L. germanorum* to be particularly worthy of Federal listing. The second reviewer concurred with all of the comments made in the proposed rule concerning the status, threats or potential threats and supported the listing of the species.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that Lessingia germanorum should be classified as an endangered species. Procedures found at section 4 of the Act and regulations implementing the listing provisions of the Act (50 CFR Part 424) were followed. 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 *L. germanorum* Cham. (San Francisco lessingia) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Threats facing the habitat of *Lessingia germanorum* include one or more of the following—urbanization, invasion of alien plants, sand quarrying, bulldozing, and damage by pedestrians, bicycles, and off-road vehicles.

Most natural habitats of the San Francisco peninsula have been eliminated by urbanization. Suitable *Lessingia germanorum* habitat has decreased by 90 percent since European settlement (CDFG 1990). Urban development extirpated populations of *L. germanorum* at Lone Mountain and Lake Merced (both in San Francisco) (CNDDB 1994). Historical populations of *L. germanorum* at Mountain View Lake and Ocean View Downs also have been extirpated, presumably due to urban development and competition from invasive alien plants (CDFG 1989). Most of the central dune scrub habitat on San Bruno Mountain has been eliminated by construction of houses and cemeteries, the Colma dump, and a flower farm (McClintock *et al.* 1990). About 4 hectares (10 acres) of potential habitat remain on San Bruno Mountain for *L. germanorum* (Paul Reeberg, pers. comm. 1993). Although the discovery of additional significant populations on San Bruno Mountain is unlikely, this area may be important as a site for reintroduction.

Urban development potentially threatens the population of *Lessingia germanorum* on San Bruno Mountain (Paul Reeberg, pers. comm. 1993; R. Gankin, San Mateo County Planning Department, *in litt.* 1994). The construction of seven additional dwellings within a few hundred yards of the San Bruno population has been approved (Annemarie Quevedo, pers. comm. 1993). Impacts associated with this development, such as habitat degradation and trampling of plants by pedestrians, bicycles, and off-road vehicles, would threaten this population.

Fragmentation of the coastal scrub dune habitat caused by past urban development also threatens this species. Habitat fragmentation has two primary effects. First, habitat fragmentation may alter the physical environment, changing the amount of incoming solar radiation, water, wind, or nutrients where the remnant vegetation occurs (Saunders *et al.* 1991). Second, by reducing the size and distribution of the population, habitat fragmentation increases the risk of extinction due to natural events (see Factor E).

Non-native plants alter the habitat of and compete with *Lessingia germanorum*. For example, *Carpobrotus* sp. (ice plant) covers extensive dune areas on the Presidio, and stabilizes the dune system where it occurs. Stabilization of the dune system adversely affects *L. germanorum* because the species requires exposed sand which results from dune movement (CDFG 1989). *Carpobrotus* competes with *L. germanorum* at all five occurrences on the Presidio. In addition, pedestrians, bicycles, and off-road vehicles compact the soil and promote the establishment of invasive alien plants (CDFG 1989; Susan Smith, pers.

comm. 1992). In addition to ice plant, other alien plants competing with *L. germanorum* include *Bromus diandrus* (ripgut grass), *Avena barbata* (slender oat), *Rumex* sp. (dock), *Raphanus* sp. (radish), and *Sonchus* sp. (sow thistle) (Susan Smith, pers. comm. 1992). On San Bruno Mountain *Cortaderia* sp. (pampas grass) encroachment is a serious threat. The CDFG (1992) reported that ''Without special protection and management, San Francisco lessingia will continue its declining trend.'' Populations of *L. germanorum* are currently being weeded by volunteers from the California Native Plant Society. Without their assistance, *L. germanorum* would be outcompeted by alien plants.

The habitat of *Lessingia germanorum* has been modified at one site by tree planting. Native and introduced shrubs and trees, including *Pinus radiata* (Monterey pine), were planted at the Presidio in the late 1800's. These trees adversely alter the habitat of *L. germanorum* by increasing the amount of shade (CDFG 1989; CNDDB 1994; Susan Smith, pers. comm. 1992).

Bulldozing and sand quarrying have adversely affected *Lessingia germanorum*. Bulldozing to stabilize a slope on San Bruno Mountain destroyed about one-eighth of the *L. germanorum* population (Paul Reeberg, pers. comm. 1993; Thomas Reid Associates, *in litt.* 1991). In January 1989, most of the habitat for one population of *L. germanorum* on the Presidio was destroyed when sand was removed to repair a tee on the base golf course (CDFG 1990). Sand quarrying is an on-going threat at this site; any sand quarrying that may occur in the future would negatively impact this species.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Overutilization is not known to be a current threat to *Lessingia germanorum*. However, overcollection by researchers, rare plant collectors, or curiosity seekers could potentially result from the increased publicity following publication of the final rule to list this species.

C. *Disease or predation.* There are no known disease or predation threats to *Lessingia germanorum*.

D. *The inadequacy of existing regulatory mechanisms.* Five of the six remaining colonies of *Lessingia germanorum* are located on the Presidio which is managed as a National Recreation Area by the National Park Service. However, National Park Service ownership and management have not removed all of the threats to the species. In addition, a Memorandum of Understanding, established in 1987 between the Service, the National Park Service, Department of Defense, and CDFG for the purpose of mutual cooperation for management of sensitive native plant communities on the Presidio, does not address *L. germanorum* specifically (CDFG 1989). Moreover, the fact that the National Park Service petitioned the Service to emergency list *L. germanorum* as endangered is evidence of the inadequacy of existing Federal regulations to protect the species from extinction within the foreseeable future.

The State of California Fish and Game Commission has listed *Lessingia germanorum* as an endangered species under the California Endangered Species Act (chapter 1.5 section 2050 *et seq.* of the California Fish and Game Code) and the California Native Plant Protection Act (Chapter 10 section 1900 *et seq.* of the California Fish and Game Code). Though both statutes prohibit the ''take'' of State-listed plants (California Native Plant Protection Act, Chapter 10 section 1908 and California Endangered Species Act, Chapter 1.5 section 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 land owner notify the agency ''at least 10 days in advance of changing the land use to allow salvage of such a plant'' (California Native Plant Protection Act, Chapter 10 section 1913).

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

The CEQA pertains to projects that occur on lands other than Federal land. The National Environmental Policy Act (NEPA) requires disclosure of the environmental effects of projects on Federal lands. Certain actions can be categorically excluded from the NEPA process when (a) The action or group of actions would have no significant effect on the quality of the human environment, and (b) the actions or group of actions would not involve unresolved conflicts concerning alternative uses of available resources. Exceptions to the categorical exclusions exist. One of these exceptions is when the action would affect a species listed or proposed to be listed on the List of Endangered or Threatened Species. Until a species is federally listed or proposed for listing, this exception to the categorical exclusion would not be applied regardless of the State listing status.

The San Bruno Mountain Habitat Conservation Plan (HCP), developed under section 10(a)(1)(B) of the Act, preserves most of San Bruno Mountain and provides for management and monitoring of a variety of rare plants and animals. However, because the San Bruno Mountain population of *Lessingia germanorum* is located outside the San Bruno Mountain HCP boundary, it receives no protection through the HCP.

E. *Other natural or manmade factors affecting its continued existence.* As discussed in Factor A, pedestrians, bicycles, and off-road vehicles degrade the habitat of *Lessingia germanorum*. These activities also directly destroy individual plants. A bike path runs through the middle of one *L. germanorum* population (CNDDB 1994). Hiking trails exist adjacent to three populations (Terri Thomas, pers. comm. 1993). Plants are damaged or destroyed when trail users wander off the established trails and into populations of *L. germanorum*.

The habitats of all Presidio populations of *Lessingia germanorum* are subject to occasional disturbance by unauthorized vehicle use. This disturbance directly destroys the plants and encourages establishment of invasive alien plants. Weedy species tend to colonize the tracks left by the vehicles (Susan Smith, pers. comm. 1992). An environmental education camp exists near the location of one population of *L. germanorum*. This population is inadequately fenced, leaving the habitat vulnerable to degradation and the plants vulnerable to trampling.

When the ownership of the Presidio transferred from the Department of the Army to the National Park Service, a marked increase in visitation by the public occurred (Terri Thomas, pers. comm. 1994). Increased pedestrian traffic and other recreational activities are likely to negatively impact *Lessingia germanorum* because the populations are close to trails (Terri Thomas, pers. comm. 1992, 1993). In addition, the park is patrolled by police on horseback. Horses can trample the plants directly and compact the soil. A high potential exists for adverse impacts to populations of *L. germanorum* on the Presidio from these activities.

Garbage dumping has degraded the habitat at one site on the Presidio where *Lessingia germanorum* occurs (CNDDB 1994). Digging by pets also adversely affects *L. germanorum* at all sites on the Presidio by destroying individual plants (Laura Nelson, Golden Gate National Recreation Area, pers. comm. 1993; Peter Lacivita, San Francisco Corps of Engineers, pers comm. 1993).

On San Bruno Mountain, fertilizer-contaminated run-off from a housing development above the slope supporting the largest population of *Lessingia germanorum* threatens this site (Paul Reeberg, pers. comm. 1993). The nitrogen in these fertilizers promotes invasion by weedy species that compete with *L. germanorum*.

As discussed in Factor A, habitat fragmentation may adversely alter the physical environment for the species. In addition, by reducing the size and distribution of a population, habitat fragmentation increases the risk that a natural event such as a pest or disease outbreak or reproductive failure could cause extinction of the species (populations of annual species especially are affected by reproductive failure). A natural event, such as a flood, pest or disease outbreak, extended drought, landslide, or combination of several such events, could destroy part of a single population or entire populations. If habitat fragmentation splits a population into small, isolated units or if a natural event significantly reduces the size of a population, the risk of extirpation due to genetic problems associated with small populations could increase.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to issue this rule. *Lessingia germanorum* has been reduced to five small populations on the Presidio in San Francisco County and one population on San Bruno Mountain in San Mateo County; collectively, the populations inhabit less than 0.8 hectares (2 acres). This taxon has been adversely affected and is endangered by competition from invasive alien plants, shading by alien and native plants, bulldozing, sand quarrying, fertilizer-contaminated run-off, urban development, trampling by pedestrians, bicycles, and off-road vehicles, other human activities, and natural events. *Lessingia germanorum* is in danger of extinction throughout all or a significant part of its range, and the preferred action is, therefore, to list it as endangered.

Alternatives to this action were considered but not preferred. As defined by the Act, threatened species are those species which are likely to become endangered (in danger of extinction) within the foreseeable future. Because *Lessingia germanorum* is currently in danger of extinction, listing the species as threatened would not be appropriate. Similarly, not listing *L. lessingia* would be inappropriate.

Critical Habitat

Critical habitat is defined by section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) Essential to the conservation of the species and (II) that may require special management considerations or protection and; (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon determination that such areas are essential for the conservation of the species. Designations of critical habitat must be based on the best scientific data available and must take into consideration the economic and other relevant impacts of specifying any particular area as critical habitat at the time the species is listed as endangered or threatened.

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 determine critical habitat concurrently with determining a species to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Lessingia germanorum* 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) designation of critical habitat would not be beneficial to the species.

The six populations of *Lessingia germanorum* inhabit less than 0.8 hectares (2 acres). Any activity that would adversely modify critical habitat would likely jeopardize the continued existence of the species as well. The designation of critical habitat therefore would not provide additional benefit for *L. germanorum* beyond the protection afforded by listing. As discussed under Factor B, this taxon is potentially threatened by overcollection due to its low population size. The publication of precise maps and descriptions of critical habitat in the **Federal Register** and local newspapers as required when designating critical habitat would increase the degree of threat to this plant from take or vandalism and, therefore, could contribute to its decline. The listing of this taxon as endangered publicizes the rarity of the plant and can make it attractive to researchers, curiosity seekers, or rare plant collectors.

Protection of the habitat of this *Lessingia germanorum* species will be addressed through the recovery process and the section 7 consultation process. The Service believes that Federal activities in the areas where these plants occur can be identified without the designation of critical habitat. The Service finds designation of critical habitat not prudent for *L. germanorum*. Such a designation would increase the degree of threat from vandalism, collecting, or other human activities and is unlikely to benefit the conservation of this taxon.

Available Conservation Measures

Conservation measures provided to species listed as endangered under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in public awareness and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the State and requires that recovery actions 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 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 the species or destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Five of the six populations of *Lessingia germanorum* occur on Federal land managed by the National Park Service. Listing this plant would provide for the development of a recovery plan. Such a plan would bring together both State and Federal efforts for conservation of the plant. The recovery plan would establish a framework for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan 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 more likely to grant funds to affected States for management actions promoting the protection and recovery of this plant.

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

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 the listing on proposed and ongoing activities within a species' range. Collection, damage, or destruction of this species on Federal lands is prohibited, although in appropriate cases a Federal endangered species permit may be issued to allow collection for scientific or recovery purposes. Such activities on non-Federal lands would constitute a violation of section 9 if conducted in knowing violation of California State law, as discussed under Factor D, State regulations, or State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies.

Activities that are unlikely to violate section 9 include accidental trampling. Activities that occur on Federal land, or on private land that receive Federal authorization or funding, for which a Federal endangered species permit is issued to allow collection for scientific or recovery purposes or for which a consultation is conducted in accordance with section 7 of the Act, also would not result in a violation of section 9. Questions regarding whether specific activities will constitute a violation of section 9 should be directed to the Field Supervisor of the Sacramento Field Office (see **ADDRESSES** section).

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances. The Service anticipates few trade permits would ever be sought or issued for this species because the plant is not common in cultivation nor in the wild. Requests for copies of the regulations regarding listed plants and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (phone 503–231–2063, facsimile 503–231–6243).

National Environmental Policy Act

The Service has determined that an Environmental Assessment, 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 Act. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

The Service has examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no information collection requirements. This rulemaking was not subject to review by the Office of Management and Budget under Executive Order 12866.

References Cited

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

Author: The primary author of this document is Kirsten Tarp, Sacramento Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended 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:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Lessingia germanorum (=*Lessingia germanorum* var. *germanorum*).	San Francisco lessingia.	U.S.A. (CA)	Asteraceae—Aster ..	E	620	NA	NA
*	*	*	*	*	*	*	

Dated: April 8, 1997.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 97–15925 Filed 6–18–97; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 970326068–7132–02; I.D. 031197A]

RIN 0648–AJ86

Marine Mammals; Subsistence Taking of Northern Fur Seals; Harvest Estimates.

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: Pursuant to regulations governing northern fur seal subsistence taking on the Pribilof Islands, and following a 30-day public comment period on the proposed subsistence need estimates of the Pribilof Aleuts, NMFS is publishing this final rule establishing annual northern fur seal harvest range levels for 1997–1999.

DATES: Effective June 19, 1997 and applies to the harvest beginning June 23, 1997.

ADDRESSES: Hilda Diaz-Soltero, Acting Director, Office of Protected Resources (F/PR), 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Steve Zimmerman, (907) 586–7235, or Margot Bohan, (301) 713–2322.

SUPPLEMENTARY INFORMATION:

Background

The northern fur seal (*Callorhinus ursinus*) population is considered depleted under the Marine Mammal Protection Act (MMPA) (50 CFR 216.15(c)). The subsistence harvest of northern fur seals on the Pribilof Islands, Alaska, is governed by regulations found in 50 CFR part 216 subpart F—Taking for Subsistence Purposes. These regulations were published under the authority of the Fur Seal Act, 15 U.S.C. 1151 *et seq.*, and the MMPA, 16 U.S.C. 1361 *et seq.* (see 51 FR 24828, July 9, 1986). The purpose of these regulations is to limit the take of fur seals to a level providing for the subsistence needs of the Pribilof Aleuts, while using humane harvesting methods and restricting taking by sex, age, and season for herd management purposes.

Subsistence Harvest Estimates for 1997 through 1999

NMFS published a notice and request for public comment (62 FR 17774, April 11, 1997) proposing a range of subsistence need estimates on the Pribilof Islands for 1997–99, based on the results of the 1994–96 harvests and responses from the tribal governments on St. Paul and St. George Islands. NMFS proposed that the harvest estimate for northern fur seals on St. Paul Island for each year, 1997–99, remain the same as that in 1994 through 1996 (1,645 to 2,000).

For St. George Island, NMFS proposed that the lower bound of the estimate of subsistence need for each year, 1997–99, increase from 281 to 300 seals and that the upper bound remain at 500 seals. NMFS based this change in the estimate on the continuing decline of the island's economy, which has resulted in an increased rate of unemployment and, thus, a greater reliance on subsistence harvesting of food resources to meet the natives' needs.

As no comments were received in response to the notice proposing the upcoming years' estimates of subsistence need, NMFS is publishing this final rule that establishes the annual harvest ranges for the years 1997–1999, as follows: St. Paul Island: 1,645–2,000; St. George Island: 300–500.

If the Aleut residents of St. Paul or St. George Island reach the lower limit of their range during the harvest, and still have unmet subsistence needs, they may request an additional number of seals, up to the upper bound of their respective ranges. Conversely, the harvest can be terminated before the lower limit of the range is reached if it is determined that the subsistence needs of the Pribilof Aleuts have been met or the harvest has been conducted in a wasteful manner. The Aleut residents of St. Paul and St. George Islands may harvest up to the lower bound of the applicable range between June 23 and August 8 of each year, 1997–99. If, at any time during the harvest, the lower estimate of subsistence need for an island is reached, the harvest must be suspended for no longer than 48 hours, pursuant to 50 CFR 215.32(e)(1)(iii), pending a review of the harvest data to determine if the subsistence needs of the island residents have been met. At such time, the Pribilof Aleuts may submit information to NMFS indicating that subsistence needs (for either island) have not been met. If the Pribilof Aleuts substantiate an additional need for seals, and there has been no indication of waste, NMFS will provide a revised estimate of the number of seals required for subsistence purposes. If additional information is not submitted by the Pribilof Aleuts, NMFS will consider only the information in the record at the time of the suspension.

Classification

NMFS has determined that the approval and implementation of this document will not significantly affect the human environment and that preparation of an Environmental Impact Statement is not required by section 102(2) of the National Environmental Policy Act. This rule makes no changes to the regulations governing the taking of fur seals for subsistence purposes. Because this rule does not alter the conclusions of previous environmental impact analyses and environmental assessments (EA), it is categorically excluded by NOAA Administrative