The agency also wishes to make it clear that where Standard 201, or other Federal motor vehicle safety standards, do not address a specific test condition, vehicles must comply in all circumstances consistent with anticipated use of the vehicle by occupants. Multiple impacts to one component are an example of a circumstance that might be encountered in a crash. NHTSA may therefore test single components with multiple impacts when performing compliance testing under Standard 201.

The AAMA petition also requests that the agency rectify an apparent conflict involving the procedure for locating CG–F by use of the ''seating reference point (SgRP).'' The SgRP is a single point which establishes the rearmost normal design driving or riding position. In Standard No. 201, S8.12(a)(1) uses SgRP with the seat in its rearmost normal design or driving position to locate the rearmost CG–F (CG–F2). The forwardmost CG–F (CG–F1) is, according to S8.12(a)(2), located horizontally forward of CG–F2 by the distance equal to the fore and aft distance of the seat track. Because S8.12(a)(2) describes CG–F1 as the head center of gravity with the seat in its forwardmost adjustment position, AAMA believes that S8.12 implies that the reference point to be used is not SgRP, which is a single point, but rather the design H-point, which can occupy a number of points according to the seat adjustment. In its petition, AAMA suggested that a conflict existed and requested that it be resolved.

When the August 1995 final rule was published, NHTSA was requested to change the reference point from the SgRP to the H-point. The agency explained in the preamble of the April 1997 final rule that a change of the reference point is not necessary. This is because the only point used for locating CG–F1 and CG–F2 is the single SgRP. The agency notes that, prior to a recent correcting amendment published on January 2, 1998 (63 FR 27), S8.12(a)(1) incorrectly specified that C-–F2 should be located with the seat in its rearmost adjustment position rather than the rearmost normal design driving or riding position. As the SgRP only exists in the latter position and not the former, AAMA and others could have reasonably concluded that NHTSA intended that the design H-point rather than the SgRP be used to locate CG–F1 and CG–F2. The reference in S8.12(a)(2) to the seat being in its forwardmost adjustment position to assist in describing CG–F1 may have created further opportunities for misunderstanding. However, the agency believes that the correcting amendment to S8.12(a)(1) resolved this issue and that further rulemaking is not required.

AAMA also suggested that the existing definition of the forehead impact zone is in error. In its petition, AAMA recommended that in S8.10(d), the word ''vertical'' be replaced with ''horizontal'' as it refers to a plane along the contour of the outer skin of the forehead of the FMH. S8.10(d) specifies the procedure for locating the upper boundary of the forehead impact zone by directing that a line be drawn along the contour of the headform and through a point on a vertical line in the midsagittal plane of the FMH so that the line is bisected by that point. This line is described as being coincident to a vertical plane, while the procedure for locating the lower horizontal boundary, found in S8.10(c), specifies that the lower boundary line be coincident to a horizontal plane. AAMA's belief that the use of the vertical plane in S8.10(d) is in error may be premised on the use of the horizontal plane in S8.10(c) for locating a similar line. However, at the point where the upper boundary of the forehead impact zone is located, the contours of the FMH are such that the use of a horizontal plane for locating the upper boundary would result in the forehead impact zone extending along the sides of the FMH. NHTSA has determined that the use of a vertical plane in describing this procedure is more appropriate. Use of a horizontal plane to describe the forehead impact zone would include part of the side of the head in the forehead impact zone.

Based on the foregoing, NHTSA denies the AAMA and ASC petitions.

**Authority:** 49 U.S.C. 30103, 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: April 10, 1998.

**Ricardo Martinez,**

*Administrator*.

[FR Doc. 98–10674 Filed 4–21–98; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

**RIN 1018–AD35**

## Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for One Plant, *Arctostaphylos pallida* (Pallid Manzanita), From the Northern Diablo Range of California

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

**ACTION:** Final rule.

**SUMMARY:** The Fish and Wildlife Service (Service) determines threatened status for *Arctostaphylos pallida* (pallid manzanita) 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 primary threats to the species are the effects of fire suppression, and shading and competition from native and alien plants. To a lesser extent, the species is threatened by disease, herbicide spraying, hybridization, and the ongoing effects of habitat loss and fragmentation. This rule implements the Federal protection and recovery provisions afforded by the Act for this species.

**DATES:** Effective May 22, 1998.

**ADDRESSES:** The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Sacramento Field Office, 3310 El Camino, Suite 130, Sacramento, CA 95821–6340.

**FOR FURTHER INFORMATION CONTACT:** Dwight Harvey, at the above address or by telephone (916/979–2725).

**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 composed of rock in the Franciscan series. The soils formed from Franciscan rock are believed to partially control the present distribution of plant species in the Diablo Range (Sharsmith 1982). *Arctostaphylos pallida* seems to prefer to grow in limited locations of the East Bay Hills on north and east facing slopes where bare, siliceous, mesic soils with low fertility exist (Amme and Havlik 1987a).

Alice Eastwood described *Arctostaphylos pallida* in 1933 from specimens collected in 1902 by W.W. Carruth in the ''East Oakland Hills,'' an area believed to be Huckleberry Ridge in Alameda and Contra Costa Counties, California. *A. pallida* is a member of the *A. andersonii* complex, a group of *Arctostaphylos* species found in central coastal California. Though McMinn reduced the taxon to a variety of *A. andersonii* in 1939, Wells (1993) treated it 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. The flowering period is from December to March.

The overall current range of *Arctostaphylos pallida* is similar to that known at the time the species was described in 1933. The extant populations of this species are thought to be smaller, however, due to habitat destruction and fragmentation by urbanization (B. Olson, *in litt.* 1994). Although *A. pallida* occupies most of its historic range, local habitat destruction due to residential development has resulted in losses of up to 50 percent in some locations along Manzanita Way in the Oakland Hills (B. Olson, *in litt.* 1994). Only two large populations are known, one at Huckleberry Ridge, the presumed type locality in Alameda and Contra Costa Counties, and the other at Sobrante Ridge in Contra Costa County. The remaining occurrences, all located in Alameda or Contra Costa Counties, are all small, and most have fewer than ten individuals. Of the 13 documented occurrences of *A. pallida*, six are considered to be declining, while the trend of the remaining seven is uncertain or unknown (CNDDB 1997). One of the latter populations has fewer than 50 plants and was planted outside of its native habitat, where its long-term survival is not likely (CNDDB 1997). Two other occurrences are considered to have been planted (CNDDB 1997).

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 *Arctostaphylos* dominated chaparral that is often surrounded by oak woodlands and coastal shrub (Amme *et al.* 1986). The two largest occurrences occupy a total area of 12 hectares (ha) (29 acres (ac)) (Amme *et al.* 1986). These two populations are found in maritime chaparral, a habitat with mesic environmental conditions due to a maritime influence. The smaller of the two, at Sobrante Ridge, has the least human impact of all known populations. It had an estimated 1,700 to 2,000 plants in the mid-1980s and the status and vigor of the plants appeared good (Amme *et al.* 1986, Amme and Hovik 1987). The population remains in good shape and, although some management is needed, the potential for long term viability is high (David Amme, pers. comm. 1997, Neil Havlik, pers. comm. 1997). The Sobrante Ridge site has more open space than other occurrences and recruitment of *Arctostaphylos pallida* is taking place in areas with bare and exposed gravel (Steve Edwards, Tilden Botanic Garden, pers. comm. 1997).

The largest known population of *Arctostaphylos pallida* occurs at Huckleberry Ridge, although an estimated 50 percent of the original habitat at this site has either been developed for housing or is privately owned. Development eliminated a large number of *A. pallida* plants and fragmented the remaining habitat at this site (Amme and Havlik 1987b, B. Olson, *in litt.* 1994). An estimated 2,400 to 2,700 plants were present in this population during the mid 1980s (Amme *et al.* 1986). A fungal infection during the early 1980s resulted in branch and stem dieback in over 50 percent of the plants at Huckleberry Ridge, and the condition of the population was described as poor (Amme and Havlik 1987c). Disease is discussed in further detail under factor C in the ''Summary of Factors Affecting the Species'' section below.

Many of the smaller populations occur in coastal scrub (Brad Olson, California Native Plant Society, *in litt.* 1994). These occurrences of *Arctostaphylos pallida* are all small with few individuals and their long term viability is questionable. The largest is estimated to have 65 individuals, some of which were planted (CNDDB 1997). Several other occurrences were also planted, and many small populations are located along roadcuts where plants appear to have established naturally after the soil was disturbed (Amme *et al.* 1986). Some of these occurrences have only one or several individuals and are in poor condition (CNDDB 1997). Many of these smaller populations are shaded by planted and naturalized *Pinus radiata* and *Cupressus* spp. (Amme and Havlik 1987a). Shading and competition are discussed in more detail under factor E below in the ''Summary of Factors Affecting the Species'' section below.

More than half of the remaining habitat for the species, including both large populations and numerous smaller populations, occur on lands owned by the East Bay Regional Park District (EBRPD)(Brad Olson, EBRPD, *in litt.* 1997). Other small populations occur on lands owned by the East Bay Municipal Utility District (EBMUD), the City of Oakland, Pacific Gas and Electric power line easements, or on other privately owned lands (B. Olson, *in litt.* 1994, Robert Nuzum, EBMUD, *in litt.* 1997). The primary threats to *Arctostaphylos pallida* are the effects of fire suppression, and shading and competition from native and alien plants. To a lesser extent, the species is threatened by disease, herbicide spraying, hybridization, and the ongoing effects of habitat loss and fragmentation.

**Previous Federal Action**

Federal government actions on the 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. This document 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 in the **Federal Register** (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 existing 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 that had not been made final, along with four other proposals that had expired.

The Service published an updated 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 were those taxa for which the Service had on file sufficient information to support issuance of proposed listing rules. On November 28, 1983, the Service published a supplement to the Notice of Review (48 FR 53640). This supplement changed this taxon from Category 1 to Category 2. Category 2 species were those taxa for which the Service had information indicating that listing may be warranted but for which it lacked sufficient information on status and threats to support issuance of listing 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 elevated to 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, 1983, 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 annually from October of 1983 through 1993. Publication of the proposed rule to list *A. pallida* as a threatened species on August 2, 1995 (60 FR 39309) constituted the final warranted finding for this species.

The processing of this final rule conforms with the Service's listing priority guidance published in the **Federal Register** on December 5, 1996 (61 FR 64475) and the extension of the guidance published in the **Federal Register** on October 23, 1997 (62 FR 55268). The guidance clarifies the order in which the Service will process listing actions following two related events: (1) The lifting, on April 26, 1996, of the moratorium on final listings imposed on April 10, 1995 (Pub. L. 104–6), and (2) the restoration of funding for listing through passage of 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 outstanding proposed listings. A lower priority is assigned to resolving the conservation status of candidate species and processing administrative findings on petitions to add species to the lists or reclassify species from threatened to endangered status (Tier 3). The lowest priority actions are in Tier 4, a category which includes processing critical habitat determinations, delistings, or other types of reclassifications. Processing of this final rule is a Tier 2 action.

### Summary of Comments and Recommendations

In the August 2, 1995, proposed rule (60 FR 39309) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State and Federal agencies and representatives, City and County governments, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices were published in the *Daily Review* (Hayward, California), the *Ledger Dispatch* and the *Brentwood News* (Antioch, California), and the *Oakland Tribune* on August 9, 1995, which invited public comment. No public comments or requests were received during this public comment period. Work on the final rule to list *Arctostaphylos pallida* as a threatened species was suspended due to the moratorium. After the moratorium was lifted in April 1996, the public comment period was reopened on February 27, 1997, for 30 days to update the proposed listing (62 FR 8417). In accordance with Service policy (59 FR 34270), four independent specialists were solicited to review pertinent scientific or commercial data and assumptions relative to the proposed rule. No response was received from the four independent specialists.

In a letter dated March 25, 1997, Mr. Brad Olsen of the East Bay Regional Park District requested that the comment period be reopened an additional time because all affected and interested parties and agencies may not have had sufficient time to convey important information pertaining to all the known *Arctostaphylos pallida* populations. The notice opening the additional comment period was published in the **Federal Register** (62 FR 24388) on May 5, 1997. The public comment period closed on June 4, 1997. Comments were solicited from an additional eight experts pertaining to—(1) The known or potential effects of fire suppression and general fire management practices on the pallid manzanita and its habitat, (2) other biological, commercial, or other relevant data on any threats (or the lack thereof) to the species; and (3) the size, number, or distribution of populations of the species.

During the last two comment periods, the Service received a total of eight comments (letters and personal phone conversations) from seven people. One commenter supported the listing and the other six were neutral. Several commenters provided additional information that has been incorporated into this rule. No commenters were opposed to the rule.

### Summary of Factors Affecting the Species

After a thorough review and consideration of the best available scientific and commercial information,

the Service has determined that *Arctostaphylos pallida* should be classified as a threatened species. Section 4 of the Endangered Species Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures to be followed for adding species to the list of threatened and endangered species. 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 its Habitat or Range*

In its proposal to list the pallid manzanita (60 FR 39311), the Service identified residential development as a threat. However, the Service no longer considers it to be a significant threat. Although residential development eliminated a large number of *Arctostaphylos pallida* plants on Huckleberry Ridge, further direct habitat destruction is not anticipated. Up to 50 percent of the original habitat of *A. pallida* on Huckleberry Ridge has been developed for housing or is privately owned. However, most of the remaining population at Huckleberry Ridge, as well as the other large *A. pallida* population on Sobrante Ridge, is on lands now owned by the East Bay Regional Park District and is protected from further direct habitat destruction resulting from urbanization or land use conversion. The smaller *A. pallida* populations occur either on other park lands or on privately owned lands that have already been developed. The ongoing effects of prior development are discussed in detail under factor E.

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

Although this species is not known to be sought after by collectors, *Arctostaphylos pallida* is commercially cultivated (Wells 1993). Many members of this genus are considered desirable to use for interior decoration because of their attractive bark, leaves, and hard wood. In addition, they are often used in residential landscapes and local horticulturalists sometimes collect the seeds for cultivation (Keeley and Keeley 1992, Smith 1988). Overutilization is not currently known to be a threat to this species, but unrestricted collecting for scientific or horticultural purposes or excessive trampling of seedlings by individuals interested in seeing rare plants could result from increased publicity as a result of listing this species. Possible unauthorized cutting of *A. pallida* was evident at the Sobrante Ridge Regional Preserve population where public access trails and photographic displays of this species are established throughout manzanita habitat (Dwight Harvey and Elizabeth Warne, USFWS, *in litt.* 1997).

*C. Disease or Predation*

Approximately 50 percent of the Huckleberry Ridge population of *Arctostaphylos pallida* was affected in the 1980s by a fungal infection that attacked the roots of the plants, causing branch and stem dieback (Amme and Havlik 1987a, CDFG 1987). The Huckleberry Ridge population remains in poor condition (Amme and Havlik 1987c, CNDDB 1997). 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).

*Botryosphaeia* fungal infections can cause changes in leaf pigmentation thus affecting the plant's photosynthetic capabilities, destroy branches, and lead to the eventual death of whole plants (Smith 1985, Amme and Havlik 1987, Wood and Parker 1988). Pale chlorotic leaves, possibly due to *Botryosphaeia* fungi, were evident at the East Ridge population on EBMUD land, where 14 mature *A. pallida* plants grow under a canopy dominated by *Umbellularia californica, Arbutus menziesii,* and introduced *Pinus radiata* (D. Harvey and E. Warne, *in litt.* 1997, R. Nuzum, *in litt.* 1997). In addition, urban expansion has resulted in the planting and subsequent spread of many exotic and native species of trees and shrubs (Amme and Havlik 1987a). Many of these species grow faster than *Arctostaphylos pallida* and, in some locations, completely shade them. Excessive shade and overcrowding can cause a slow decline in the plant's overall health and vigor that can lead to the spread of *Botryosphaeia* fungi and an unknown root fungus (Smith 1985, Amme and Havlik 1987a).

*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). The State of California requires that individuals obtain authorization from the California Department of Fish and Game (CDFG) to possess or ''take'' a listed species. Although the take of State-listed plants is prohibited by the California Native Plant Protection Act and the California Endangered Species Act (California Fish & Game Code, chapter 10, division 2, § 1908 and California Fish & Game Code, chapter 1.5, division 3, § 2080), State law does not prohibit 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, the California Native Plant Protection Act requires only that the land owner notify the agency ''at least ten days in advance of changing the land use to allow salvage of such a plant'' (California Fish and Game Code, chapter 10, § 1900 *et seq.*).

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 of requiring 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 listed or rare species. Protection of listed species through CEQA is, therefore, dependent upon the discretion of the agency involved. In addition, CEQA guidelines recently have been revised in ways that, if made final, may weaken protections for threatened, endangered, and other sensitive species.

California Department of Fish and Game (CDFG) and EBRPD jointly developed the Alameda Manzanita Management Plan in 1987. Since then, due to limited funding, and conflicting fire management policies, this plan has only partially been carried out. 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). EBRPD has reduced the amount of flammable dead plant material in the Huckleberry Ridge population (Ed Leong, EBRPD, pers. comm. 1994, *in litt.* 1997). The reduction in plant litter, and the pruning of some competing exotics, has helped to stimulate germination and growth of the species at Sobrante Ridge, Huckleberry Ridge and two other lesser locations (D. Amme, pers. comm. 1994, N. Havlik, pers. comm. 1997). The potential effects of fire management policies on *A. pallida* are further discussed under factor E below.

*E. Other Natural or Manmade Factors Affecting Their Continued Existence*

Due to past and present fire suppression policies and inactive or ineffective fire management plans, the long-term viability of *Arctostaphylos pallida* is in doubt. In the 1800s, before the expansion of urban areas into the East Bay Hills, major natural or human-caused fires periodically burned through manzanita habitat mainly from east to west driven by dry ''Diablo Winds'' during the late summer and fall (EBRPD 1996, R. Nuzum, *in litt.* 1997). These fires rarely threatened the lower lying communities of Berkeley and Oakland. Fire management practice from about 1900 to 1940 changed from unrestricted burning to permitted burning only (Sampson 1944, J. Dunne *et al.* 1991). The California Department of Forestry and Fire Protection (CDFFP) currently has a policy of immediate suppression of all wildfires (B. Harrington, CDFFP, pers. comm. 1996).

Due to the expansion of homes up to the crest of the East Bay Hills during the 1940s and 1950s, human-caused fires, such as the Oakland Hills fire of 1991, are now a major threat to human safety (EBRPD 1996). Over the last 10 years, urban development has expanded to approach the two largest populations of *Arctostaphylos pallida* at Sobrante and Huckleberry Ridges. At Sobrante Ridge, homes come within 30 m (100 ft) of the population and at Huckleberry Ridge some homes along Manzanita Drive have *A. pallida* within their landscaping (Amme and Havlik 1987a, D. Harvey and E. Warne, *in litt.* 1997).

Fire suppression in the East Bay Hills, in combination with increased browsing of tree and shrub seedlings and acorns by deer and livestock, has led to structural and compositional change in habitats within the range of *Arctostaphylos pallida.* Open-canopied oak woodlands maintained historically by frequent fire have been converted, in the absence of fire, into closed-canopied woodland-forests dominated by *Umbellularia californica* (California bay), other native trees, or alien conifer or *Eucalyptus* forests (McBride 1974, B. Olson, *in litt.* 1994 Safford 1995). Because of their denser canopies, these forests and woodlands create a microclimate unsuitable for healthy *A. pallida* plants. For example, the small population of *A. pallida* at upper East Ridge persists in the understory of a closed-canopy forest of California bay and *Arbutus menziesii* (madrone) (R. Nuzum, *in litt.* 1997). No signs of recent fire are present at this site (D. Harvey and E. Warne, *in litt.* 1997 as *per* J. Dunne) and it is estimated that the site may not have burned in more than 100 years (R. Nuzum, *in litt.* 1997). Most of the 14 adult pallid manzanita in this population are unhealthy and show signs of fungal infections and bark striping. Bark striping may be a sign that excessive canopy shading is affecting *A. pallida*. Bark striping was first thought to have a pathological origin but is now believed to be a stress response by some species of manzanita to the absence of fire (Davis 1973 *in* Hanes 1995). On shaded sites, such as upper East Ridge, the ability of the shade intolerant *A. pallida* plants to maintain live tissue is thought to lessen, resulting in the partial shutdown of growing cells and tissue sloughing that manifests as bark striping (Davis 1973 *in* Hanes 1995, Amme and Havlik 1987a). At the Huckleberry Ridge population, *A. pallida* plants are generally wider than they are tall, a consequence of growing away from the overstory canopy to reach light, and all of the *A. pallida* plants displayed bark striping (Amme and Havlik 1987a).

Fire suppression can also alter the reproductive dynamics of *Arctostaphylos pallida* stands. Based on differing survival responses of chaparral plants to fire, manzanitas can be divided into burl-forming and non-burl-forming (Sampson 1944, Roof 1976, Keeley and Keeley 1977). Burls lay at the base of the main stem of the plant and contain stored nutrients and shoot-forming embryonic tissues. The burl-forming types are capable of surviving fire by resprouting from these burls. The second group does not form burls. Instead, stand persistence is based on the establishment and maintenance of a seed bank in the soil. This seed bank may lay dormant within the soil for as much as 100 years or more (Keeley 1987, 1991). When a fire passes through an area, the seeds are scarified and thus become capable of germinating (Amme and Havlik 1987a). However, fire is not the only way seeds can be scarified. Mechanical disturbances, such as crushing, can also crack the seed coat and enable the seeds to germinate (S. Edwards, pers. comm. 1997). Both types of manzanita can also regenerate by layering, a method that does not require fire. Branches sprout roots at points at which they are covered by soil and leaf litter. This produces a clone of the original plant (Amme and Havlik 1987b). Of the three methods of regeneration, only seed reproduction results in genetic recombination and it is, therefore, important to the maintenance of genetic diversity.

Stand regeneration in *Arctostaphylos pallida* is based primarily on seed reproduction. At the Sobrante Ridge population, *A. pallida* is closely associated with open stands of *Quercus chrysolepis* (canyon live oak) and *Q. wislizenii* var. *fructescens* (interior live oak) and recruitment of both pallid manzanita and oaks is occurring on bare and exposed gravel (Amme *et al.* 1986, S. Edwards, pers. comm. 1997). The effects of fire are evident at this site and fire may have occurred 20 to 30 years ago (N. Havlik, pers. comm. 1997).

In contrast, the effects of fire are not evident at the Huckleberry Ridge population and fire may have not occurred there for 70 years or longer (R. Nuzum, *in litt.* 1997, D. Harvey and E. Warne, *in litt.* 1997). The *Arctostaphylos pallida* population is unhealthy due to the negative effects of a dense California bay-madrone canopy and reproduction is poor (N. Havlik, pers. comm. 1997, R. Nuzum, *in litt.* 1997, S. Edwards, pers. comm. 1997, D. Harvey and E. Warne, *in litt.* 1997). In a 1993 fuel management and habitat improvement experiment at the Huckleberry Ridge site, a small area overgrown with a dense stand of *A. pallida* was cleared, and the cut vegetation piled and burned. Seedlings of *A. pallida* were present the following year. Hand pulling of the invasive alien, *Genista monspessulana* (French broom), was necessary during 1994 and 1995. During a site visit in March of 1997, 40 to 50 *A. pallida* were present. Most were 10–15 cm (4–6 in) tall, vigorous, and well-branched. The seedlings were found on the barer soil areas. In addition to continued invasion by French broom, native *Baccharis pilularis* (coyote brush) had begun to invade the site (E. Leong, pers. comm. 1997) .

The importance of fire in relation to this manzanita's reproductive strategy is uncertain, however, since seed reproduction can also occur as a result of site soil disturbance. Evidence exists that mechanical scarification, such as crushing, stimulates germination in several manzanita species, including *A. pallida* (Keeley 1987, Keeley 1991, S. Edwards, pers. comm. 1997). New

seedlings of *A. pallida* have appeared in areas where mechanical scarification had recently taken place including exposed gravel clearings and fire breaks at the Sobrante Ridge (S. Edwards, pers. comm. 1997, N. Havlik, pers. comm. 1997), at several road cuts along Skyline Boulevard (D. Amme, pers. comm. 1997), and at Huckleberry Ridge where grading and removal of plants has occurred for residential development (N. Havlik, pers. comm. 1997).

However, fire is thought to have been the primary historical process by which seed regeneration was initiated and it has other valuable effects beyond seed scarification. The accumulated leaf and bark litter, fallen fruits, and roots of *Arctostaphylos* species have a self-inhibitory effect on seed germination (Amme and Havlik 1987b). Fire is believed to remove these toxic materials and promote germination of *Arctostaphylos* and other herbs and shrubs (Amme *et al.* 1986). Fire also recycles nutrients in the soil (Amme and Havlik 1987b). The excessive accumulation of dead leaf and bark material also results in the retention of soil moisture. Higher soil moisture levels allows fires to conduct heat through the soil more effectively; this has the potential to destroy the existing *Arctostaphylos pallida* seed bank. (Wood and Parker 1988).

The fire management policy of the CDFFP has superseded EBRPD fire management policy on park lands (J. Di Donato, EBRPD, *pers. comm*. 1996). However, fire management can be modified in specific areas for listed species (B. Harrington, *pers. comm*. 1996). On EBRPD and EBMUD lands, where the majority of *Arctostaphylos pallida* populations occur, *A. pallida* habitat has been managed by fire suppression and brush removal (B. Olson, *in litt.* 1994, J. Di Donato, pers. comm. 1996, B. Harrington, pers. comm. 1996). Mechanical removal of exotic plants has been the primary method used to improve growing conditions mostly for isolated individual plants (Amme and Havlik 1987). Due to the continued expansion of urbanization adjacent to *A. pallida* habitat, and the catastrophic Oakland Hills fire of 1991, mechanical removal of highly flammable vegetation remains the predominant method used to reduce the fuel load in *A. pallida* chaparral habitat. A fire management plan that includes the possibility of prescribed burns to address the needs of *A. pallida* for germination and seedling establishment is currently being developed by the EBRPD in cooperation with CDFG and CDFFP (EBRPD 1996, J. Di Donato, *in litt.* 1996).

The genetic integrity of *Arctostaphylos pallida* is threatened by hybridization with other species of *Arctostaphylos* introduced 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 private lands along Manzanita Way, a road that borders the Huckleberry Ridge Preserve. Hybrids between a common associate of *A. pallida, A. tomentosa* ssp. *crustacea* (brittle leaf manzanita), are known to occur in two separate populations (Amme *et al.* 1986, D. Harvey and E. Warne, *in litt.* 1997 as *per* J. Dunne). Hybrids have also been observed between *A. pallida* and *A. glauca* (bigberry manzanita) in Oakland parks (D. Amme, pers. comm. 1997 as *per* S. Edwards). *Arctostaphylos pallida* closely resembles *A. pajaroensis* (Pajaro manzanita), a species native to the Pajaro River area. Hybrids may be occurring between these two species in areas where residents have planted *A. pajaroensis* along Huckleberry Ridge (D. Amme, pers. comm. 1997). Hybridization with any of these taxa could result in a hybrid manzanita swarm replacing pure *A. pallida* (Amme and Havlik 1987b, Amme *et al.* 1986).

Herbicides have been used to eradicate *Eucalyptus* associated with *Arctostaphylos pallida* in many areas of EBRPD lands in the Oakland Hills. The exact effect herbicide spraying has on *Arctostaphylos pallida* has not been studied, however, roadside spraying has had negative effects on regeneration of *A. pallida* along Skyline Boulevard (Amme and Havlik 1987a).

Urban development in the East Bay Hills has fragmented the natural habitat of *Arctostaphylos pallida.* Splitting the habitat into smaller, more isolated units can alter the physical environment by 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 are subject to external factors (e.g., invasion of nonnative plants, foot traffic, and increased erosion) that disrupt natural ecosystem processes (B. Olson, *in litt.* 1994).

Residential development at Huckleberry Ridge has contributed to the introduction of exotic landscape and weedy plant species that compete with the remnant population (Amme and Havlik 1987b). Small populations, in particular, are threatened by shading from planted *Eucalyptus* spp., *Pinus radiata*, and *Cupressus* spp. (cypresses), and by competition with other aggressive alien plant species including French broom, *Vinca major* (periwinkle), and *Senecio mikanioides* (German ivy) (Amme *et al.* 1986, B. Olson, *in litt.* 1994, N. Havlik, pers. comm. 1997). Eventually the taller growing species will block necessary light to the few scattered *A. pallida* resulting in unhealthy, dying and diseased plants as demonstrated at some areas of the Huckleberry Ridge and East Ridge populations (R. Nuzum, *in litt.* 1997, N. Havlik, pers. comm. 1997, E. Leong, *in litt.* 1997). In 1985 several large bay trees were cut at the base to improve light conditions for some *A. pallida.* As a result, many *A. pallida* responded with new growth (N. Havlik, pers. comm. 1997).

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 make this rule final. Based on this evaluation, the preferred action is to list *A. pallida* as threatened. This species is not now in immediate danger of extinction throughout all or a significant portion of its range. *A. pallida* exists at two large and eleven small occurrences. The majority of its habitat is on EBRPD property. The two largest occurrences of *A. pallida* are protected from further direct habitat destruction resulting from urbanization or land use conversion. However, all occurrences of *A. pallida* remain threatened by compositional and structural changes due to fire suppression that result in shading and competition from native and alien plant species, disease, the ongoing effects of habitat fragmentation resulting from past urbanization, and chance events due to the small size of the few remaining populations. Some populations are also threatened by hybridization, and herbicide spraying. Furthermore, the existing regulatory mechanisms do not provide *A. pallida* adequate protection from these threats. *Arctostaphylos pallida*, therefore, fits the definition of a threatened species. For the reasons discussed below, critical habitat has not been designated.

**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 a species is determined to be endangered or threatened. Critical habitat is not determinable when one or both of the following situations exist—(1) Information sufficient to perform required analyses of the impacts of the designation is lacking, or (2) the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat (50 CFR 424.12(a)(2)). 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.

Critical habitat designation for this species is not prudent due to lack of benefit. Critical habitat only applies to Federal actions on Federal lands or federally-permitted actions on private lands. All known populations occur on non-Federal land, and no Federal lands are known to occur within the historical range of the species. No Federal actions, authorizations, or licensing currently occurs, or is likely to occur, on lands where the species occurs. Therefore, designation of critical habitat is not likely to benefit *A. pallida.*

Moreover, such designation could increase the degree of threat to the species. The publication of precise maps and descriptions of critical habitat in the **Federal Register** would make this plant vulnerable to incidents of vandalism or collection and, therefore, could contribute to the decline of the species. All of the 13 occurrences of *A. pallida* are located near or adjacent to residential areas and public roads where they are easily accessible. *A. pallida* is commercially cultivated (Wells 1993). Many members of this genus, including numerous San Francisco Bay area taxa, are considered desirable for interior decoration and landscape plantings and are collected for cultivation for these purposes (Roof 1976, Smith 1985, 1988). The desirability and accessibility of the species, therefore, could make the plants subject to collection if their precise location was publicized. Most of the populations have so few individuals that even limited collection could contribute significantly to their decline. Designation of critical habitat for *A. pallida* could, therefore, interfere with recovery efforts for the species.

The Service finds, therefore, that the designation of critical habitat for *Arctostaphylos pallida* is not prudent at this time, because such designation would likely provide no conservation benefit beyond that the species would receive by virtue of its designation as a threatened species. This finding is based on the fact that the species does not occur on Federal lands, nor does it occur on non-Federal lands where there is likely to be any Federal agency involvement. Moreover, designation of critical habitat would facilitate trespassing and increased collection or damage to the species or its habitat, and thereby interfere with recovery efforts. Any minor, unforeseen benefits that might derive from designation of critical habitat would be outweighed by the increased threat to the species that would result from such designation.

**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 and no Federal actions have been identified that are likely to occur on non-Federal lands with populations of the species.

Some populations occur on non-Federal lands protected from development. EBRPD owns the sites of both major populations of *A. pallida.* 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 (D. Amme, pers. comm. 1994, E. Leong, pers. comm. 1994, *in litt* 1997). A specific management plan does not exist for the small population on EBMUD land at upper East Ridge. The Service has not pursued any conservation agreements on public or private land regarding this species.

Listing this plant species necessitates the 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. This 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 some trade permits may be sought or issued for cultivated specimens to enhance the propagation and survival of the species.

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. However, *Arctostaphylos pallida* is not known to occur on any Federal lands. Such activities on non-Federal lands would constitute a violation of section 9, however, if conducted in knowing violation of State law or regulations or in violation of State criminal trespass law. Interstate or foreign commerce, or offering for sale in interstate or foreign commerce, or importing or exporting pallid manzanita without a threatened species permit would be 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).

### National Environmental Policy Act

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

### Required Determinations

This rule does not require collection of information that requires approval by the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

### References Cited

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

### Author

The primary author of this final rule is Dwight Harvey, 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, the Service amends part 17 subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

## 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 section 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 | | | | | | | |
| * | * | * | * | * | * | * | |
| *Arctostaphylos pallida.* | pallid manzanita ..... | U.S.A. (CA) ..... | Ericaceae—heath ... | T | 635 | NA | NA |
| * | * | * | * | * | * | * | |

Dated: March 4, 1998.

**Jamie Rappaport Clark,**

*Director, Fish and Wildlife Service.*

[FR Doc. 98–10662 Filed 4–21–98; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 648

**[Docket No. 980318066-8066-01; I.D. 022698A]**

## Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 25; Correction

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

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects two portions of the regulatory text in the final rule for Framework Adjustment 25 to the Fishery Management Plan for the Northeast Multispecies Fishery (FMP) published Tuesday, March 31, 1998.

**DATES:** Effective May 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** Mary Tokarcik, 978-281-9326.

**SUPPLEMENTARY INFORMATION:**

Background

The interim final rule for the Atlantic sea scallop fishery and the final rule to implement measures contained in Framework Adjustment 25 to the FMP were published on Tuesday, March 31, 1998 (63 FR 15324 and 63 FR 15326, respectively). Both rules added a provision to the same paragraph designation of the prohibitions section of 50 CFR part 648. Because the Atlantic Sea scallop interim final rule became effective on April 3, 1998, and Framework Adjustment 25 to the FMP is not effective until May 1, 1998, this document is correcting Framework Adjustment 25 by changing its paragraph designation of (a)(110) to paragraph (a)(112) for its addition to § 648.14. The regulatory text as published for the Atlantic sea scallop interim final rule remains unchanged.

Also, Framework Adjustment 25 inadvertently included the time frame May 10 through May 30 as a period of time in which gillnet vessels would be prohibited from fishing in the Mid-coast Closure Area. This document is correcting § 648.87(a)(1)(i) by removing the reference to May 10 through May 30.

### Correction

Accordingly, the publication on March 31, 1998, of the final regulations to implement Framework Adjustment 25 to the Northeast Multispecies FMP (I.D. 022698A), which was the subject of FR Doc. 98-8288, is corrected as follows:

1. On page 15330, in the first column, amendatory instruction 3, line 5, correct ''(a)(110)'' to read ''(a)(112)'', and in line 15 to the regulatory text to § 648.14, correct ''(110)'' to read ''(112)''.

2. On page 15333, in the second column, in line 2 to the regulatory text to § 648.87(a)(1)(i), remove ''May 10 through May 30''.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: April 15, 1998.

**Rolland A. Schmitten,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

[FR Doc. 98–10731 Filed 4–21–98; 8:45 am]

**BILLING CODE 3510–22–F**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 971208297-8054-02; I.D. 041498A]**

## Fisheries of the Economic Exclusive Zone Off Alaska; Groundfish Fisheries by Vessels Using Hook-and-Line Gear in the Gulf of Alaska

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for groundfish by vessels using hook-and-line gear in the Gulf of Alaska (GOA), except for sablefish or demersal shelf rockfish. This action is necessary because the first seasonal bycatch allowance of Pacific halibut apportioned to hook-and-line gear targeting groundfish other than sablefish or demersal shelf rockfish in the GOA has been caught.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), April 18, 1998, through 1200 hrs, A.l.t., May 18, 1998.

**FOR FURTHER INFORMATION CONTACT:** Thomas Pearson, 907-486-6919.

**SUPPLEMENTARY INFORMATION:** The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The prohibited species bycatch mortality allowance of Pacific halibut for groundfish other than demersal shelf rockfish, which is defined at § 679.21(d)(4)(iii)(C), was established by the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) for the first season, the period January 1, 1998, through May 17, 1998, as 250 mt.

In accordance with § 679.21(d)(7)(ii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the first seasonal apportionment of the 1998 Pacific halibut bycatch mortality allowance specified for the hook-and-line groundfish fisheries other than sablefish or demersal shelf rockfish in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for groundfish other than sablefish or demersal shelf rockfish by vessels using hook-and-line gear in the GOA.

Maximum retainable bycatch amounts may be found at § 679.20(e) and (f).

### Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the first seasonal apportionment of the 1998 Pacific halibut bycatch mortality allowance specified for the groundfish fisheries other than sablefish or demersal shelf rockfish by vessels using hook-and- line gear in the GOA. A delay in the effective date is impracticable and contrary to the public interest. The first seasonal bycatch allowance of Pacific halibut apportioned to hook-and-line gear targeting groundfish other than sablefish or demersal shelf rockfish in the GOA has been caught. Further delay would only result in overharvest which would disrupt the FMP's objective of apportioning Pacific halibut bycatch allowances throughout the year. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under E.O. 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*