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Joshua Gotbaum,

Director, Pension Benefit Guaranty Corporation.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R8-ES-2010-0049]
[MO-92210-0-0008-B2]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition to List *Arctostaphylos franciscana* as Endangered with Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list *Arctostaphylos franciscana* (Franciscan manzanita or San Francisco manzanita) as endangered under the Endangered Species Act of 1973, as amended, (Act) and to designate critical habitat. Based on our review, we find that the petition presents substantial scientific or commercial information indicating that listing this species may be warranted. Therefore, with the publication of this notice, we are initiating a review of the status of the species to determine if listing the species is warranted. To ensure that the status review is comprehensive, we are requesting scientific and commercial data and other information regarding this species. Based on the status review, we will issue a 12-month finding on the petition, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act.

DATES: To allow us adequate time to conduct this review, we request that we receive information on or before October 12, 2010. Please note that if you are using the *Federal eRulemaking Portal* (see **ADDRESSES** section, below), the deadline for submitting an electronic comment is 11:59 p.m. Eastern Daylight Savings Time on this date.

After October 12, 2010, you must submit information directly to the Field Office (see **FOR FURTHER INFORMATION CONTACT** section below). Please note that we might not be able to address or incorporate information that we receive after the above requested date.

ADDRESSES: You may submit information by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. In the box that reads "Enter Keyword or ID," enter the Docket number for this finding, which is -[FWS-R8-ES-2010-0049]. Check the box that reads "Open for Comment/ Submission," and then click the Search button. You should then see an icon that reads "Submit a Comment." Please ensure that you have found the correct rulemaking before submitting your comment.

- U.S. mail or hand-delivery: Public Comments Processing, Attn: [FWS-R8-ES-2010-0049]; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information we receive on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Request for Information** section below for more details).

FOR FURTHER INFORMATION CONTACT:

Karen Leyse, Listing Coordinator, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W-2605, Sacramento, CA 95825; by telephone 916-414-6600; or by facsimile 916-414-6712. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Request for Information

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to promptly review the status of the species (status review). For the status review to be complete and based on the best available scientific and commercial information, we request information on *Arctostaphylos franciscana* from governmental agencies, Native American tribes, the scientific community, industry, and any other interested parties. We seek information on:

- (1) The species' biology, range, and population trends, including;
 - (a) Requirements for reproduction, nutrition, and habitat;
 - (b) Genetics and taxonomy;
 - (c) Historical and current range including distribution patterns;
 - (d) Historical and current population levels, and current and projected trends; and
 - (e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) The factors that are the basis for making a listing determination for a species under section 4(a) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), which are:

- (a) The present or threatened destruction, modification, or curtailment of its habitat or range;
- (b) Overutilization for commercial, recreational, scientific, or educational purposes;
- (c) Disease or predation;
- (d) The inadequacy of existing regulatory mechanisms; or
- (e) Other natural or manmade factors affecting its continued existence.

(3) The potential effects of climate change on this species and its habitat.

If, after the status review, we determine that listing *Arctostaphylos franciscana* is warranted, we will propose critical habitat (see definition in section 3(5)(A) of the Act), under section 4 of the Act, to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, within the geographical range currently occupied by *A. franciscana*, we request data and information on:

- (1) What may constitute "physical or biological features essential to the conservation of the species";
- (2) Where these features are currently found; and
- (3) Whether any of these features may require special management considerations or protection.

In addition, we request data and information on "specific areas outside the geographical area occupied by the species" that are "essential to the conservation of the species." Please provide specific comments and information as to what, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat meets the requirements of section 4 of the Act.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is a threatened or endangered species must be made "solely on the basis of the best scientific and commercial data available."

You may submit your information by one of the methods listed in the **ADDRESSES** section. If you submit information via <http://>

www.regulations.gov, your entire submission—including any personal identifying information—will be posted on the website. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>.

Information and supporting documentation that we received and used in preparing this finding is available for you to review at <http://www.regulations.gov>, or you may make an appointment during normal business hours at the U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Section 4(b)(3)(A) of the Act (16 U.S.C. 1533(b)(3)(A)) requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that a petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make the finding within 90 days of our receipt of the petition, and publish our notice of this finding promptly in the **Federal Register**.

Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is “that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted” (50 CFR 424.14(b)). If we find that substantial information was presented, we are required to promptly conduct a species status review, which we will subsequently summarize in our 12-month finding.

In considering what factors might constitute threats, we must look beyond the exposure of the species to the factor to evaluate whether the species responds to the factor in a way that causes actual impacts to the species. If there is exposure and the species responds negatively, the factor may be a threat, and we then attempt to determine how significant a threat it is. The threat is significant if it drives or contributes to the risk of extinction of the species such that the species may warrant listing as threatened or

endangered as those terms are defined by the Act. The identification of factors that could impact a species negatively may not be sufficient to compel a finding that listing may be warranted. The information shall contain evidence sufficient to suggest that these factors may be operative threats that act on the species to the point that the species may meet the definition of threatened or endangered under the Act.

Petition History

On December 23, 2009, we received a petition dated December 14, 2009, from the Wild Equity Institute, the Center for Biological Diversity, and the California Native Plant Society requesting that *Arctostaphylos franciscana* be listed as endangered on an emergency basis, and that critical habitat be designated under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioners, as required by 50 CFR 424.14(a). In a January 26, 2010, letter to the petitioners, we responded that we had reviewed the information presented in the petition and determined that issuing an emergency regulation temporarily listing the species as per section 4(b)(7) of the Act was not warranted. We also indicated that we would make an initial finding in Fiscal Year 2010 regarding whether the petition presents substantial information to indicate that listing may be warranted. This finding addresses the petition.

Previous Federal Actions

Arctostaphylos franciscana was originally proposed for listing as an endangered species under the Act in 1976 (41 FR 24524, June 16, 1976). It was included in the list of Category 1 candidates for listing in 1980, as one of the taxa retaining a high priority for addition to the list subject to confirmation of extant populations. At the time the species was thought to be extinct in the wild although known to be extant in cultivation (U45 FR 82480, December 15, 1980). It is included as a “species of concern” in the Recovery Plan for Coastal Plants of the Northern San Francisco Peninsula (USFWS 2003, p. 95). In late 2009, 62 years after the loss of the last known wild plants, one individual *A. franciscana* plant was located in the wild on the Presidio of San Francisco (the Presidio), a unit of the National Park Service’s system, on the San Francisco peninsula.

Upon discovery of the plant, several Federal and State agencies, and private organizations established a conservation plan (referred to herein as Chasse *et al.* 2009) and a memorandum of agreement

(MOA) (referred to herein as California Department of Transportation *et al.* 2009) to conserve the species in the wild. The Federal agencies participating in these efforts were the National Park Service and the Service. The State of California was represented by the California Department of Transportation and the California Department of Fish and Game. The Presidio Trust, a wholly-owned government corporation that manages the Presidio (71 FR 10608, March 2, 2006; NPS 2006), also participated.

Species Information

Arctostaphylos franciscana is a low, spreading to ascending evergreen shrub in the heath family (Ericaceae) that may reach 2 or 3 feet in height when mature (USFWS 2003, p. 95; Chasse *et al.* 2009, p. 5). Its leaves are about 1.5 to 2 centimeters (cm) (0.59 to 0.79 inches (in)) long, are isofacial (have the same type of surface on both sides), and are oblanceolate (longer than they are wide and wider towards the tip) (USFWS 2003, p. 57; Chasse *et al.* 2009, p. 39). Its mahogany brown fruits are about 6 to 8 millimeters (mm) (0.24 to 0.32 in) wide, while its urn-shaped flowers measure about 5 to 7 mm (0.2 to 0.28 in) long (Wallace 1993, p. 552; USFWS 2003, p. 57). A closely related species, *A. montana ravenii* (Raven’s manzanita), looks similar but has a more prostrate growth habit, more rounded leaves, smaller and less reddish fruits, and smaller and more spherical flowers (USFWS 2003, pp. 55, 57). Another somewhat similar appearing species, though not as closely related, is *A. uva-ursi* (bearberry), which can be distinguished by its lack of isofacial leaves (Chasse *et al.* 2009, p. 39).

Arctostaphylos franciscana is endemic (native and restricted) to the San Francisco peninsula, California, and historically occurred in areas with serpentine soils and bedrock outcrops, typically growing in mixed populations with *A. montana ravenii* (USFWS 2003, pp. 95, 96). At one point the two plants, along with *A. montana* (Mount Tamalpais manzanita), were considered to be subspecies of *A. hookeri* (Hooker’s manzanita). However, recent taxonomic revisions have established *A. montana* and *A. franciscana* as separate species, and have assigned *A. montana ravenii* as a subspecies of *A. montana*. These revisions have been based primarily on genetic comparisons, including the fact that *A. franciscana* is diploid (with 13 pairs of chromosomes) while *A. montana ravenii* is tetraploid (with 26 chromosome pairs) (USFWS 2003, p. 95; Parker *et al.* 2007, pp. 149, 150; Chasse *et al.* 2009, p. 6).

Prior to October, 2009, *Arctostaphylos franciscana* had not been seen in the wild since 1947 (Chasse *et al.* 2009, pp. 3, 7). It was originally known from three locations: the Masonic and Laurel Hill Cemeteries in San Francisco's Richmond district, and Mount Davidson in the south-central part of San Francisco (USFWS 2003, pp. 16, 62, 95; Chasse *et al.* 2009, p. 4). Unconfirmed sightings were also noted at a possible fourth location near Laguna and Haight Streets. The Masonic and Laurel Hill Cemetery sites had been converted to urban development by 1947 (Chasse *et al.* 2009, p. 7). The Mount Davidson and possibly the Laguna and Haight Streets locations were presumably lost to urbanization as well.

Prior to the loss of the wild plants, botanists collected cuttings and rooted specimens of wild *Arctostaphylos franciscana*, representing at least three genetically distinct individuals, and propagated them in botanical gardens (USFWS 2003, p. 96; Chasse *et al.* 2009, p. 7). Modern botanical collections of this plant include some of the original specimens from Laurel Hill, as well as specimens propagated vegetatively since the species was thought to have been extinct in the wild (Chasse *et al.* 2009, pp. 6-8). The specimens (both those originally from Laurel Hill and those propagated thereafter) have been successfully planted on a wide variety of soils despite the fact that historic sites in the wild are primarily underlain by serpentine outcrops (USFWS 2003, pp. 6, 96; Chasse *et al.* 2009, p. 6). Serpentine soil restricts the growth of many plants due to its high nickel and magnesium concentrations, and thus tends to support unique plant communities (Brooks 1987, pp. 19, 53; USFWS 2003, p. 16).

In October 2009, an ecologist identified a plant growing in a concrete-bound median strip along Doyle Drive in the Presidio as *Arctostaphylos franciscana* (Associated Press 2009, p. 1; Chasse *et al.* 2009 pp. 3, 4). The plant's location was directly in the footprint of a roadway improvement project designed to upgrade the seismic and structural integrity of the south access to the Golden Gate Bridge (California Department of Transportation *et al.* 2009, p. 1; Chasse *et al.* 2009, p. 10). The identification of the plant as *A. franciscana* has since been confirmed with 95 percent confidence based on morphological characteristics (Parker *et al.* 2007, p. 1; Chasse *et al.* 2009 pp. 3, 4; Vasey and Parker 2010, pp. 1, 5). Additional tests of ploidy level indicate that the plant is diploid, consistent with *A. franciscana* (Vasey and Parker 2010, p. 6).

Preliminary results from molecular genetic data also increase the confidence that the plant belongs to *A. franciscana*, although genetic analysis shows evidence that the plant is a descendant of a distant hybridization event, a situation that is thought to be quite common in the genus (Vasey and Parker 2010, pp. 1, 7). Based on the best available scientific information we consider the species to be *A. franciscana*.

Several agencies, including the Service, established an MOA and conservation plan for the species (see **Previous Federal Actions** section above). The conservation partners concluded it was not feasible to leave the plant undisturbed at its original site, due to impacts on public safety and to cultural resources related to a potential curtailment or redesign of the roadway improvement project (Chasse *et al.* 2009, pp. 9, 10).

The conservation plan recommended that the plant be moved to a new site within the Presidio. The plan included measures to take cuttings from the plant, both from non-rooted stems and from layering stems (stems which have rooted at their leaf nodes), for vegetative propagation (Chasse *et al.* 2009, pp. 10-16, 40-42). The plan also called for collection and eventual propagation of seeds (including seeds in the soil around the plant's original location), and for genetic testing of resulting plants (since seeds fertilized in the wild would likely produce hybrids). Additionally, because the roots of most *Arctostaphylos* individuals establish a mutually beneficial association with species of mycorrhizal fungus living in the soil, the conservation plan established means by which the soil for propagating cuttings and seeds should be inoculated with spores from such fungi. The plan also evaluated potential translocation sites, established procedures for preparation of the new site and for the translocation itself, and called for management and monitoring (both short- and long-term) of the translocated plant and all newly propagated plants, with the goal of eventually establishing self-sustaining populations of the species in the wild (Chasse *et al.* 2009, pp. 23-27, 29-30).

The translocation of the *Arctostaphylos franciscana* plant to an active native plant management area of the Presidio was accomplished, apparently successfully and according to plan, on January 23, 2010 (Chasse *et al.* 2009, pp. 20, 23-25; Chronicle 2010, p. 1). Subsequent monitoring reports indicate the plant continues to do well at its new location (Yam 2010b, pp. 1, 3-14).

Evaluation of Information for this Finding

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR 424 set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

In making this 90-day finding, we evaluated whether information regarding threats to *Arctostaphylos franciscana*, as presented in the petition and other information available in our files, is substantial, thereby indicating that the petitioned action may be warranted. Our evaluation of this information is presented below.

A. The Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range.

Information Provided in the Petition

The petition asserts that *Arctostaphylos franciscana* is within the footprint of, and threatened by, the Doyle Drive project, a multiyear road design project at the south access to the Golden Gate Bridge (Plater 2009, p. 4).

Evaluation of Information Provided in the Petition and Available in Service Files

Chasse *et al.* (2009, p. 3, 4) note that prior to discovery of *Arctostaphylos franciscana* at Doyle Drive, the overstory shrubs and trees that sheltered the plant had been removed in preparation for the road construction project, thereby uncovering the plant and exposing it to new environmental conditions. Planned road construction activities at the site were scheduled to result in the imminent loss of the plant's existing habitat, due to the plant's location directly in the footprint of the planned northbound roadway and associated abutment wall (Chasse *et al.* 2009, pp. 9, 10). Analysis of protection options for the species found that project and location constraints precluded protection of the plant *in situ*.

(Chasse *et al.* 2009, p. 10). Therefore, shortly prior to the expected destruction of the plant's habitat, the plant was translocated to a preselected site on the Presidio (Chasse *et al.* 2009, pp. 9, 10; Yam 2010a, p. 1).

Additionally, the species has been reduced to the single remaining wild plant because of loss of its original habitat at all other known locations (Chasse *et al.* 2009, p. 7). Therefore, we have determined that the petition and information in our files present substantial information to indicate listing *A. franciscana* may be warranted due to destruction or modification of the species habitat.

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

Information Provided in the Petition

The petition asserts that during the last 60 years a robust nursery trade has been established for the species, and that "unregulated propagation and trade of the species in the commercial market may have a detrimental impact on reintroduction and conservation efforts by undermining the genetic stock of the species." This assertion will be addressed under Factor E below. The petition does not contain any assertions regarding overutilization of the species for commercial, recreational, scientific, or educational purposes.

Evaluation of Information Provided in the Petition and Available in Service Files

Neither the petition nor information in our files presents information indicating that overutilization of *Arctostaphylos franciscana* for commercial, recreational, scientific, or educational purposes is a threat. Therefore, we find that the petition does not present substantial information to indicate that overutilization for commercial, recreational, scientific, or educational purposes may present a threat to *A. franciscana*. However, we intend to assess this factor more thoroughly during the status review for the species.

C. Disease or Predation.

Information Provided in the Petition

The petition asserts that the single wild specimen of *Arctostaphylos franciscana* may become more susceptible to various plant diseases due to the stress of translocation. No information was presented regarding a potential threat of predation on the species.

Evaluation of Information Provided in the Petition and Available in Service Files

Chasse *et al.* (2009, pp. 26-29) acknowledge that stress and disease are threats to the plant, and established monitoring and management protocols to help address them. The disease specifically mentioned in the conservation plan is crown rot, which is a common disease of manzanita and is discussed specifically in the context of outplanting the *A. franciscana* progeny (rooted seedlings and cuttings, and layered plants) to wild locations (Chasse *et al.* 2009, p. 17), although an implication is that transplantation itself may cause a manzanita to be more susceptible to crown rot if it is planted so deeply that the crown receives too much moisture. A fungal infection called twig blight is also a potential concern, particularly during wet years (USFWS 2003, p. 69). The authors of the conservation plan did not specifically link the stress of translocation to an increased susceptibility to disease. However, we consider this to be a reasonable concern due to general knowledge of plant physiology, which indicates that plants subject to environmental stressors may become more susceptible to disease organisms (Ohio State University Extension 1998, p. 1). Therefore, we have determined the petition and information in our files presents substantial information to indicate increased susceptibility to disease due to translocation may be a threat to *Arctostaphylos franciscana*.

D. The Inadequacy of Existing Regulatory Mechanisms.

Information Provided in the Petition

The petition asserts that there are currently no regulatory mechanisms protecting *Arctostaphylos franciscana*.

Evaluation of Information Provided in the Petition and Available in Service Files

No existing regulatory mechanisms establish legal consequences for harming the last known wild specimen of the species or its habitat, or for harming any other such wild specimens that may be established or found to exist. The species is not listed under the California Endangered Species Act or the Native Plant Protection Act as rare, threatened, or endangered (California Fish and Game Code, sections 1904, 2074.2 and 2075.5; California Department of Fish and Game 2010, pp. 1-2). The conservation plan and MOA are not regulatory in nature and are not legally enforceable by third parties (California Department of

Transportation 2009, p. 8; Chasse *et al.* 2009, p. 3). While the last wild specimen is relatively safe in its new location on National Park Service land from additional roadway improvement projects or urban development, we are not aware of any regulatory mechanisms prohibiting damage to the specimen at the site, or requiring that the welfare of the specimen be taken into account should the land on which it is located ever be transferred to a new owner. The National Environmental Policy Act of 1969, as amended (NEPA), requires all Federal agencies to formally document, consider, and publicly disclose the environmental impacts of major Federal actions and management decisions significantly affecting the human environment. However, NEPA does not require mitigation for impacts.

We have determined the petition and information in our files presents substantial information to indicate the lack of regulatory mechanisms that would control other threats such as intentional or unintentional harm of the species may be a threat to *Arctostaphylos franciscana*.

E. Other Natural or Manmade Factors Affecting the Species' Continued Existence.

Information Provided in the Petition

The petition asserts under Factor A that the species is threatened by the translocation of the single remaining wild plant from its original location. The petition also asserts under Factor B that propagation and trade of the species in the commercial market may undermine the genetic stock of the species. Finally, the petition asserts that potential threats to the species exist due to climate change, unregulated off-leash dog walking, trampling or disturbance by people attending special events in the Presidio, and stochastic (chance) events.

Evaluation of Information Provided in the Petition and Available in Service Files

The authors of the conservation plan acknowledge that cultivars of *Arctostaphylos franciscana* likely descended from some of the last wild *A. franciscana* plants known to exist in the 1940s, are available in commercial trade, and are "popular with home gardeners" (Chasse *et al.* 2009, p. 8). Since hybridization between diploid species of manzanita (such as *A. franciscana*) is well recognized (Chasse *et al.* 2009, p. 5), there is a good chance that many of these commercially available specimens result from hybridization. Accordingly, any

propagation or reintroduction programs for *A. franciscana* must account for the threat of cross pollination from hybrids or other species, and subsequent genetic contamination and swamping of the *A. franciscana* gene pool (Allendorf *et al.* 2001, pp. 613, 618-621). The conservation plan does take this into account by recommending that future outplantings of nursery-raised plants avoid areas that could facilitate cross pollination (Chasse *et al.* 2009, p. 31), but additional plans will be needed to work out the details.

We agree that climate change may cause presently suitable habitat to become unsuitable for endemic California plants in general, due to projected changes in temperature and rainfall (Loarie *et al.* 2008, pp. 1-2). The ability of *Arctostaphylos franciscana* to track future climate changes by establishing new plants in new habitat may be limited because of its historic association with serpentine and greenstone bedrock outcrops (USFWS 2003, pp. 95, 96). However, the current ability of modeling to predict specific changes in climate at a scale that is meaningful to the species is extremely limited. The petition did not provide substantial information, nor did we have information in our files, to indicate climate change is a threat to the species.

We agree that trampling by dogs or people could impact the species if the wild specimen, or any herbarium-raised future specimens, were to be placed in areas subject to regular foot or dog traffic, but neither the petition nor any information in our files provides substantial information to indicate that this has occurred or is likely to occur. The petition asserts that special events can draw tens of thousands of people to the Presidio, but does not provide substantial information to indicate that any such events are likely to occur near the translocated wild plant or near any herbarium-grown plants that may be translocated to the Presidio in the future.

Despite the fact that the translocation has already been accomplished (Chronicle 2010, p. 1; Yam 2010b, pp. 1, 4), we still do not know whether the plant will persist over time and reproduce. Chasse *et al.* (2009) acknowledge that translocation of the mature plant is "very risky" (Chasse *et al.* 2009, p. 15), and that the translocated plant will require careful monitoring and management by an experienced manzanita horticulturist to increase its chance of survival (Chasse *et al.* 2009, p. 26). The translocated wild plant has been planted in an active native plant management area and is protected from public access by a cable

and post fence (Chasse *et al.* 2009, p. 20). It was also monitored every day for the first 10 days at its new location (Yam 2010b, pp. 4-13), and is scheduled to be monitored weekly until November 1, 2010, and monthly thereafter for the following 2 years (Chasse *et al.* 2009, pp. 27, 28).

We agree that stochastic events may constitute a threat to the species. Because the known population of *Arctostaphylos franciscana* in the wild is currently limited to a single plant, the population may be considerably vulnerable to stochastic events, normal but randomly occurring environmental perturbations and catastrophes such as droughts, floods, and fires, from which large, wide ranging populations can generally recover, but which extirpate small isolated populations (Gilpin and Soule 1986, pp. 25-31). Therefore, we have determined that the petition and information in our files do present substantial information regarding threats from translocation of the species, from cross pollination with other *Arctostaphylos* species, and from stochastic events to indicate that listing may be warranted.

Finding

On the basis of our evaluation of the information presented under section 4(b)(3)(A) of the Act, we have determined that the petition presents substantial scientific or commercial information indicating that listing *Arctostaphylos franciscana* throughout its entire range may be warranted. This finding is based on information provided under factors A, C, D, and E.

Because we have found that the petition presents substantial information indicating that *Arctostaphylos franciscana* may be at risk of extinction now or in the foreseeable future and, therefore, listing under the Act may be warranted, we are initiating a status review to determine whether listing *A. franciscana* under the Act is warranted.

The "substantial information" standard for a 90-day finding differs from the Act's "best scientific and commercial data" standard that applies to a status review to determine whether a petitioned action is warranted. A 90-day finding does not constitute a status review under the Act. In a 12-month finding, we will determine whether a petitioned action is warranted after we have completed a thorough status review of the species, which is conducted following a substantial 90-day finding. Because the Act's standards for 90-day and 12-month findings are different, as described above, a substantial 90-day finding does not

mean that the 12-month finding will result in a warranted finding.

References Cited

A complete list of references cited is available on the Internet at <http://www.regulations.gov> and upon request from the Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Author

The primary authors of this document are staff members of the Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: July 27, 2010

Wendi Weber,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2010-19429 Filed 8-9-10; 8:45 am]

BILLING CODE 5

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

[Docket No. 0910051335-0171-01]

RIN 0648-AY28

Groundfish Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea/Aleutian Islands Crab Rationalization Program; Recordkeeping and Reporting

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed action removes the Crab Rationalization Program requirements for catcher/processors to weigh all offloaded crab on a state-approved scale that produces a printed record and to report this information at the time of offload to NMFS on a catcher/processor offload report. NMFS has determined that these requirements are no longer necessary. This proposed action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other applicable laws.

DATES: Comments must be received no later than August 25, 2010.